

1
2 THE OFFICE OF SECRETARY OF STATE
3 STATE OF GEORGIA

4 IN THE MATTER OF:
5 STATE ELECTION BOARD MEETING
6

7 Tuesday, December 19, 2023
8 Georgia State Capitol, Room 341
9 Atlanta, Georgia
10 8:30 a.m.
11 Day 1 of 2
12
13

14 **APPEARANCE OF THE PANEL**

15 Matt Mashburn, Acting Chair
16 Sara Tindall Ghazal
17 Janice Johnston
18 Ed Lindsey
19
20
21
22
23

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1 Transcript Legend
 2 [sic] - Exactly as said.
 3 (ph) - Exact spelling unknown.
 4 -- Break in speech continuity.
 5 . . . Indicates halting speech, unfinished sentence or
 6 omission of word(s) when reading.
 7 Quoted material is typed as spoken.

8

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P R O C E E D I N G S

MR. MASHBURN: So I'm going to call this meeting to order. It now appears that we have a quorum.

I'm Matt Mashburn, the acting chair of the board. We have Sara Ghazal to my right who's present and we have Dr. Johnston to my left who is also present. And we're expecting Edward Lindsey, but he has not arrived at this time.

So at this time, we will begin with an invocation. So I ask you to be respectful for the invocation, please. We'll pray.

(Invocation)

MR. MASHBURN: And next have the Pledge of Allegiance. So please stand and face the flag.

(Pledge of Allegiance)

MR. MASHBURN: Please be seated.

Okay. We're going to do a couple of housekeeping items. Then I'll turn it over to Sara for a special presentation that she has. But just a couple of items that we would normally handle if the board had its own -- had a website when we asked for it. If we would get it, we would -- we would be able to post things such as this. But we'll do it -- we'll do it now.

1 First of all, some of you who are regulars
2 to the meeting might notice that there is not a
3 court reporter present in the room with us. The
4 reason for that is the court reporter is sick and
5 the court reporter's family is sick. So it is
6 something that is very contagious. And so
7 therefore I asked that rather than us become a
8 super-spreader event that the court reporter will
9 report this remotely from the live stream.

10 So if you see that there is not a court
11 reporter, don't be alarmed. There is a court
12 reporter. Just in the interest of safety and
13 health, we've asked the court reporter to do it
14 remotely.

15 The second question that I get frequently is
16 does the chair participate in the meeting? Does
17 the chair get to vote? And we do not -- we have
18 not adopted *Roberts Rules of Order* as a -- as a
19 firm procedure but we follow *Roberts Rules of*
20 *Order* as a guidance. And from the official
21 *Roberts Rules of Order* webpage -- you can look it
22 up if you wish. It's robertsrules.com. But in a
23 small board, the chair is a -- when the board --
24 when the chair is a member of the board, the
25 board -- the chair has all the powers of any

1 member of the board. The chair can make motions.
2 The chair can vote. The chair can participate.

3 What has been the tradition in this board is
4 that so as not to unduly influence the discussion
5 and to let the other members be free to discuss,
6 the board[sic] usually defers to the end and
7 usually either might not vote or might not
8 comment until the very end. But to answer the
9 question, according to *Roberts Rules of Order*, on
10 a small board the chair participates, the chair
11 votes.

12 A lot of you might be familiar with the
13 rules of the Senate. And in the Senate, United
14 States Senate, the vice president is the
15 presiding officer but is not a member of the
16 Senate. The vice president is not a senator. So
17 the vice president only votes to make -- in the
18 event of a tie.

19 Now, Roberts Rules -- that's a special
20 Senate rule and Roberts Rules has a different
21 rule in that even in a large body where the chair
22 does not participate, the chair can either make a
23 tie or break a tie, either one. But we are a
24 small board and so the chair participate -- the
25 chair is a member and so the chair participates

1 fully in all aspects of the board. Let's see if
2 there's anything else on that. No.

3 The next thing is we've had a frequent --
4 we've had a frequent question about continuances.
5 And for those who don't follow the board or are
6 not familiar with the board's processes, the
7 board members receive reports on the cases prior
8 to the meeting so that the board members can
9 study in great detail -- the board members put a
10 lot of, lot of work into these cases, and
11 sometimes they'll have questions about issues
12 that they would like to have answered.

13 Now, you can do that one of two ways. You
14 can have the case presented, the board member
15 asks their questions, the presenter go back and
16 find the answer and come back a second time, and
17 you end up hearing the case twice. So to make
18 efficiency the primary goal, the board members
19 ask their questions and sometimes the questions
20 can be answered in advance of the meeting and
21 sometimes they can't. And so if a question has
22 been asked that can't be answered in time for the
23 meeting, the matter is continued so that the
24 answer can be -- can be found and reported back
25 as part of the presentation of the case.

1 We will also grant continuances very freely.
2 And quite often if an attorney has been retained
3 at the very last minute, it's unfair for that
4 attorney to be required to present a case that
5 they're not familiar with. And so we will
6 frequently grant continuances of that nature.

7 So you will see both types of continuances
8 today. For the board it is a relatively common
9 and routine event. But if this is your first
10 time attending a board meeting, it might strike
11 you as odd or weird. To just go ahead and
12 answer -- answer that question.

13 The next is to remind you once again if you
14 don't have a seat, we have in the Coverdell
15 Legislative Office Building, which is immediately
16 across the street, Room 606 we've made available
17 for overflow seating. And the good news is it is
18 a lot warmer than this room. So if you're
19 freezing -- if you're freezing in this room, I
20 offer you relief instead of a free ticket on our
21 next flight, like the airlines might be able to
22 do. So Coverdell Legislative Office Building,
23 606, is an overflow that we've made available for
24 you.

25 So with that, I'm going to turn the program

1 over to Sara Ghazal for a special presentation.

2 **MS. GHAZAL:** Thank you, Mr. Chairman.

3 I just wanted to take the opportunity to
4 acknowledge the tremendous loss that Georgia
5 suffered about a month and a half ago with the
6 passing of Stephen Day.

7 Stephen Day was a husband, a father, a very
8 proud Georgia Tech graduate, and engineer. But
9 he was also a long-standing board member in
10 Gwinnett County's Board of Elections.

11 Stephen was the democratic appointee to the
12 board for more than ten years. And in that time,
13 he dedicated hundreds and hundreds of hours to
14 make sure that the citizens of Gwinnett had an
15 opportunity to cast their ballot and that that
16 ballot would be counted. He spent his time
17 looking at engineering schematics, going to MIT,
18 trying to make sure that everything was done in
19 the best and most efficient way.

20 When I called Stephen a couple of years ago
21 to ask if he would be willing to participate on
22 the county review board for Fulton County, he was
23 reluctant to do it because he wasn't sure whether
24 or not it would be addressed in a way that it
25 should be. And he agreed to participate in that

1 exercise under the condition that he was allowed
2 to operate with no undue influence, that the
3 panel would operate in good faith, and that the
4 goal of it was to approve the processes for the
5 people and the voters of Georgia. And that is
6 how he addressed and faced everything.

7 Stephen received a diagnosis of pancreatic
8 cancer and passed three weeks later. He was a
9 good friend and he was a good and faithful
10 servant. And Georgia is poorer for his loss. My
11 heart and my prayers go out to his family and to
12 the state for his loss. And I want to
13 acknowledge the contributions that he made to all
14 of us in this room and across the state of
15 Georgia. Thank you.

16 **MR. MASHBURN:** Thank you very much. Thank
17 you very much, Sara, for that presentation. And
18 we do appreciate the servant -- service that was
19 provided by this dedicated person in that he
20 spent just untold hours on the review of Fulton
21 County. And all of the citizens of Fulton County
22 who voted have been the beneficiary of his work
23 and the improvements that were made as a result
24 of it. So we appreciate that.

25 The next item on the agenda will be the

1 approval of the board meeting minutes.

2 Has the board had the opportunity to review

3 the minutes?

4 **DR. JOHNSTON:** Yes.

5 **MR. MASHBURN:** Are there any adjustments or

6 changes to the minutes?

7 **DR. JOHNSTON:** I have a change,

8 Mr. Chairman.

9 **MR. MASHBURN:** Okay. Looks like you're

10 toward the end --

11 **DR. JOHNSTON:** Toward the end --

12 **MR. MASHBURN:** -- of the last page.

13 **DR. JOHNSTON:** -- under procedure matters.

14 **MR. MASHBURN:** Okay.

15 **DR. JOHNSTON:** The L&A petition vote reads:

16 The board voted to reject all of the

17 aforementioned.

18 I would like to record my vote in favor of

19 the logic and accuracy testing petition.

20 **MR. MASHBURN:** Okay. A motion has been made

21 to amend the minutes to reflect Dr. Johnston's

22 affirmative vote for a logic and accuracy testing

23 petition. Is there a second?

24 **MS. GHAZAL:** Second.

25 **MR. MASHBURN:** Any discussion? All those in

1 favor of amending the minutes to record
2 Dr. Johnston's affirmative vote for logic and
3 accuracy testing would say aye.

4 **THE BOARD MEMBERS:** Aye.

5 **MR. MASHBURN:** All those opposed would say
6 no. Okay. With that amendment, are there any
7 other amendments or adjustments to the minutes?

8 **MS. GHAZAL:** I move that we accept the
9 minutes as amended.

10 **MR. MASHBURN:** There's been a motion to
11 accept the minutes as amended. Is there a
12 second?

13 **DR. JOHNSTON:** Second.

14 **MR. MASHBURN:** Is there a discussion? We
15 had discussion, so hearing no discussion, all
16 those in favor would say aye. All those opposed
17 would say no.

18 **THE BOARD MEMBERS:** Aye.

19 **MR. MASHBURN:** Aye. So the minutes are
20 adopted.

21 **Attorney General Report**

22 The next item on the agenda will be the
23 Attorney General's report. And this is normally
24 something that we take up at the end of the
25 meeting, but the Attorney General is busy with

1 numerous lawsuits that they need to prepare for.
2 So we need to get their report heard and let them
3 be on their way.

4 So if I ask Russ to come up for the Attorney
5 General, please. And I've turned on your mic.
6 So you should be ready to go.

7 **MR. WILLARD:** Reverb a second to ...

8 **MR. MASHBURN:** It might be me. So let's try
9 and see if I use this one if that works better.
10 Okay, the floor is yours.

11 **Consent Orders**

12 **MR. WILLARD:** The first case on the Attorney
13 General's report is out of DeKalb County. It is
14 a proposed resolution to seven state election
15 board cases: 2015-85, 2016-42, 2018-39, 2020-45,
16 2020-160, 2020-175, and 2020-215.

17 These cases involve DeKalb County's
18 configuration of a ballot and the handling of
19 absentee ballots from the 2014 election. It
20 involves failing to provide adequate training
21 regarding the set up and operation of express
22 polls for the 2016 election; it involves the
23 failure to place eligible voters in the correct
24 house district; it involves the failure to issue
25 absentee ballots upon proper request for the 2020

1 primary election; it involves delayed openings in
2 2020; and it involves the processing of -- and
3 handling of absentee ballots for the 2020
4 election cycle.

5 The proposed resolution of that case is the
6 imposition of a \$7,000 civil penalty, a
7 cease-and-desist, a public reprimand, and a
8 requirement to provide documentation of the
9 DeKalb County Board's updated process for
10 handling and storage of absentee ballots and
11 additional training.

12 Second case on the Attorney General's report
13 is Chatham County 2020-62.

14 **MR. MASHBURN:** Hang on. Hang on just a
15 second.

16 Does the -- is the board's desire that we
17 handle these one at a time or just let the
18 Attorney General present them all and we'll take
19 them as bulk?

20 **DR. JOHNSTON:** One at a time.

21 **MR. MASHBURN:** One at a time?

22 **MR. WILLARD:** All right.

23 **MR. MASHBURN:** One at a time? Okay. So
24 without objection, so ordered. Is there a motion
25 to accept the consent order -- or finalize the

1 consent order in DeKalb County 2015-085,
2 2016-042, 28 -- 2018-039, 2020-045, 2020-160,
3 2020-175, and 2020-215?

4 **MS. GHAZAL:** So moved.

5 **MR. MASHBURN:** Okay. There's been a motion.
6 And I'd like the record to reflect that we've
7 been joined by board member Edward Lindsey.

8 So welcome to you. Your mic is on and give
9 you a second to settle in.

10 So there's been -- there's been a motion to
11 adopt or finalize or approve this consent order.
12 Is there a second?

13 **DR. JOHNSTON:** Second.

14 **MR. MASHBURN:** Okay. There's been a motion
15 and a second. Is there any discussion? Hearing
16 -- okay, Dr. Johnston has a question.

17 **DR. JOHNSTON:** Mr. Chairman, a question if
18 there's a DeKalb County election official here.
19 Represented?

20 **MR. MASHBURN:** Seeing none --

21 **MS. SMITH:** Right there.

22 **MR. MASHBURN:** Oh, wait. Seeing -- seeing
23 one. Still don't see them. Okay, there we do.
24 Okay.

25 **DR. JOHNSTON:** Might I ask confirmation that

1 the deceased vo -- deceased registrants in the
2 DeKalb County voters rolls -- were they removed?

3 **MR. MASHBURN:** I see a nodding in the
4 affirmative while she moves closer to a
5 microphone. Let's see if we can get you a mic.
6 If you'll -- on the -- right in front of, you'll
7 see a panel that has a button that says either
8 "speak" or "talk." Right in front of you, you'll
9 see a panel that says "speak" or "talk." Okay, I
10 see you. You are now live.

11 Please introduce yourself for those who
12 don't know you. We know you, but, please, for
13 those who don't know you, please introduce
14 yourself.

15 **MS. SMITH:** Good morning. I'm Keisha Smith.
16 I'm the executive director for DeKalb County
17 Voter Registration and Elections.

18 **MR. MASHBURN:** Thank you.

19 Okay, Dr. Johnston asked if the decedents
20 had been removed from the rolls and I saw you nod
21 in the affirmative. If you'd like to expand on
22 that answer.

23 **MS. SMITH:** Yes. It is my understanding
24 that those measures have taken place. And so
25 thank you, yes. Yes.

1 **MR. MASHBURN:** Further discussion? Prepared
2 to vote? All those -- it has been motioned and
3 seconded, all in favor would say aye.

4 **THE BOARD MEMBERS:** Aye.

5 **MR. MASHBURN:** All those opposed would say
6 no. Passes unanimously.

7 Thank you, Miss --

8 Attorney General's Office, if you would --
9 Russ, if you would proceed to the next case,
10 please.

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

12 The next case is Chatham County 2020-62.
13 This involves the June 2020 general primary
14 election. There are a number of violations
15 against the Chatham County Board of Elections.

16 The board had an incorrectly placed board of
17 education race on the ballot that was submitted
18 to the election center; they failed to properly
19 notify the Secretary of State in advance of the
20 early processing of absentee ballots during the
21 primary election; they had a late opening
22 precinct; election workers violated the
23 prohibition on cell phone usage during the early
24 days of the pandemic in terms of they retained
25 their cell phones during election administration

1 because of medical issues with family members
2 during the early days of the pandemic; they
3 changed certain polling locations due to the
4 requirements of the pandemic -- they maintain
5 that they sent workers to post notices at all the
6 old locations, but some of the old locations did
7 not have the notices physically posted at them --
8 and there was a failure to maintain records of
9 certain clerks' oaths.

10 This resolution calls for a consent order
11 with a \$400 civil penalty against the Chatham
12 County Board of Elections.

13 In addition, there is an individual
14 respondent who is a member of the Chatham County
15 Board of Elections. And during the general
16 primary election, he did a Facebook live video to
17 his personal Facebook page during the absentee
18 ballot processing. And the proposed consent
19 order for him calls for a \$100 civil penalty, a
20 cease-and-desist, and a public reprimand.

21 Those are the two consent orders for
22 2020-62.

23 **MR. MASHBURN:** Questions by the board?
24 Questions by the board? Hearing no questions, I
25 will entertain a motion to adopt this consent

1 order.

2 **DR. JOHNSTON:** I move that we adopt the
3 consent order.

4 **MR. MASHBURN:** There's been a motion. Is
5 there a second?

6 **MS. GHAZAL:** Second.

7 **MR. MASHBURN:** There's been a second. Any
8 discussion? Hearing no discussion, I'll put it
9 to the vote. All those in favor of approve (mic
10 feedback)-- hearing no discussion we're ready for
11 a vote. All those in favor would say aye.

12 **THE BOARD MEMBERS:** Aye.

13 **MR. MASHBURN:** All those opposed would say
14 no. Motion passes unanimously.

15 We'll move to the next case.

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

17 This is Stephens County. And this consent
18 order proposes to resolve four state election
19 board cases: 2020-15, 2020-33, 2020-156, and
20 2021-56.

21 These cases entail the board -- the local
22 board's failure to provide notice of the physical
23 location of the drop box on the county election
24 website and for not having the signage at that
25 location designated by the Secretary of State;

1 the board failed to maintain the documentation
2 regarding the opening and the closing of polls;
3 the board failed to maintain the documentation
4 regarding the training provided to poll
5 officials; the board failed to timely enter voter
6 data during the 2020 election cycle; the board
7 failed to provide absentee ballots to two
8 Stephens County voters who had made timely and
9 proper application; the board failed to register
10 three Stephens County voters after submission of
11 registration forms; the board failed to
12 adequately secure a single absentee ballot in the
13 election office; the board failed to maintain
14 proper absentee ballot drop box logs and ballot
15 recap sheets for the January 2021 runoff
16 election; and they failed to respond to several
17 timely open records requests related to the 2020
18 election cycle.

19 Stephens County also for 2021-56
20 self-reported three double voters for the general
21 election runoff.

22 The proposed resolution calls for a
23 cease-and-desist, a public reprimand, a civil
24 penalty of \$3,000, \$536.28 in assessed
25 investigative costs, and additional training for

1 Stephens County election officials.

2 **MR. MASHBURN:** Questions from the board?

3 **MR. LINDSEY:** If I may, Mr. Chairman. Given
4 what they didn't do, did they at least have a
5 monitor of the drop boxes in place? A camera
6 drop box? Or do you know?

7 **MR. WILLARD:** I believe the only issue
8 regarding the drop boxes that the investigation
9 sustained was that they failed to provide the
10 physical location on their website and the
11 signage by the Secretary of State. There were no
12 additional violations regarding the drop box.

13 **MR. LINDSEY:** Just curious.

14 **MR. MASHBURN:** Other questions from the
15 board? No further --

16 **DR. JOHNSTON:** Did the --

17 **MR. MASHBURN:** Oh, sorry.

18 **DR. JOHNSTON:** Question. Is there
19 documented evidence that they will maintain
20 election documents in the future?

21 **MR. MASHBURN:** That would be part of the
22 cease-and-desist, right?

23 **MR. WILLARD:** Yes. Because that
24 maintains -- that is a continuing obligation
25 going forward. That's part of the

1 cease-and-desist, to commit no further violations
2 of the election code or election regulations.

3 **DR. JOHNSTON:** That's great.

4 **MR. MASHBURN:** Okay. Questions from the
5 board? Okay. If there's no questions, we're
6 ready to entertain a motion? Is there a motion?

7 **MR. LINDSEY:** So moved.

8 **MR. MASHBURN:** There's been a motion to
9 adopt or accept this consent order. Discussion?
10 All those in favor would say aye.

11 **THE BOARD MEMBERS:** Aye.

12 **MR. MASHBURN:** All those opposed would say
13 no. Motion passes unanimously. Thank you.

14 If you could move to the next one, please.

15 **MR. WILLARD:** Thank you, Mr. Chairman. Next
16 case is 2020-147, Paulding County. This resolves
17 a complaint against the respondent April
18 Keene(ph). She was a poll worker who allowed a
19 voter to vote twice, once in an absentee election
20 and -- once via absentee ballot and once in
21 person on the ballot marking devices.

22 This resolution against this former poll
23 worker calls for a cease-and-desist, a public
24 reprimand, and imposes a civil penalty of \$250.

25 **MR. MASHBURN:** Got any question from the

1 board? Dr. Johnston?

2 **DR. JOHNSTON:** I'm sorry, Mr. Chairman. No
3 question but I would like to make a comment for
4 the record that a majority of these consent
5 orders involve problems with absentee voting and
6 absentee ballots. So that at the earliest
7 convenience, maybe new business, a motion could
8 be made for us to consider recommending to the
9 General Assembly to no longer have no-excuse
10 absentee voting.

11 (Applause)

12 **MR. MASHBURN:** And I don't -- I don't know
13 if anyone remembers our last meeting, but we
14 adopted the theory of jazz hands rather than
15 applause. So those that are familiar with our
16 process, please demonstrate jazz hands. Thank
17 you. So that's -- that's how we do it. So thank
18 you very much, appreciate it. Thank you. Okay.

19 So if -- let's see -- no further questions
20 or comments from the board. I'll enter -- would
21 there be a motion to adopt?

22 **MR. LINDSEY:** So moved.

23 **MS. GHAZAL:** So moved.

24 **MR. MASHBURN:** There's been a motion that we
25 approve this consent order. Is there any

1 discussion? Oh, wait, I need a second. There's
2 been a second, a motion and a second. Any
3 discussion? Hearing no discussion, we're ready
4 to vote. All those in favor would say aye.

5 **THE BOARD MEMBERS:** Aye.

6 **MR. MASHBURN:** All those opposed would say
7 no. Motion carries unanimously. Please proceed
8 to the next case.

9 **Final Orders**

10 **MR. WILLARD:** Thank you, Mr. Chairman. The
11 next case is Long County 2020-36. It has
12 multiple resolutions in the case.

13 The first is a consent order against
14 Hamilton Evans, Jr. Mr. Hamilton -- or Mr. Evans
15 requested an absentee ballot and then asked for a
16 second ballot because, quote, He wanted to test
17 the system. He was bound over to the district
18 attorney's office for potential criminal
19 prosecution. And the consent order here calls
20 for a \$1,000 civil penalty, a public reprimand,
21 and a cease-and-desist.

22 There is also a proposed final order against
23 other double voters for that general primary
24 election who voted twice but did so because of
25 confusion regarding the fact that they were

1 issued absentee ballots earlier in the cycle.

2 If you'll recall, 2020 was -- you had the
3 presidential preference primary scheduled in
4 March, absentee ballots had gone out for that.
5 Then the election was postponed and held in
6 conjunction with May, the May general primary.
7 And then the May general primary was delayed
8 until June. As part of that, these five
9 individuals inadvertently voted five times as
10 opposed to Mr. Evans who intentionally voted a
11 second time.

12 **MR. MASHBURN:** Just to correct --

13 **MR. WILLARD:** I'm sorry. Five voters voted
14 twice --

15 **MR. MASHBURN:** Thank you.

16 **MR. WILLARD:** -- not five times. That's on
17 me.

18 **MR. MASHBURN:** I appreciate that
19 clarification. Any questions from the board?

20 **MR. LINDSEY:** Yeah, Mr. Chairman, if I may.
21 You know, our jurisdiction is -- and our scope is
22 generally limited to civil penalties and -- and
23 that's what you guys take up for us when we
24 report to the Attorney General.

25 If there's a criminal conduct that we

1 believe has taken place, it goes to the DA and
2 the DA handles it. Given the fact that someone
3 was intentionally voting twice, not out of
4 confusion but intentionally voting twice, you had
5 mentioned that that was referred to the D.A.
6 What, if anything, has happened with that?

7 **MR. WILLARD:** Our office has no involvement
8 in that.

9 **MR. LINDSEY:** I know. I know. I just
10 wondered what you knew or not.

11 **MR. WILLARD:** I do not have knowledge as to
12 what the DA's office may have done with it.

13 **MR. LINDSEY:** I'm sorry. It says so in the
14 book --

15 **MR. WILLARD:** Actually --

16 **MR. LINDSEY:** -- that it was declined. I'm
17 sorry. I missed that in the journal.

18 You know, I think maybe we need to sort of
19 push on that a little bit harder when it comes to
20 someone who intentionally violates our laws and
21 votes twice for whatever reason as opposed to
22 someone who simply gets confused.

23 **MR. WILLARD:** I understand. I will state
24 from personal experience that may be an issue for
25 the General Assembly because election criminal

1 violations, I think, in many prosecutors' offices
2 are considered lower priority issues.

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

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

5 **MR. MASHBURN:** Dr. Johnston's recognized.

6 **DR. JOHNSTON:** I'd like to point out that
7 the violation for double voting does not include
8 intent. The violation for the statute, 572,
9 merely says double voting is a felony.

10 It's our job to investigate and report, and
11 it's up to the D.A. or the Attorney General to
12 decide the circumstances of the case. So, you
13 know, unless and until we enforce the statutes
14 rather than just considering them suggestions of
15 how we should conduct elections, I think we are
16 not doing our proper job.

17 (Applause)

18 **MR. MASHBURN:** Come on now. Help me out
19 here.

20 All right. Let's see. Further comments or
21 questions from the board? Hearing none, we'll
22 entertain a motion to accept the final order in
23 case number 2020-036. Is there a motion?

24 **MR. WILLARD:** Actually, Mr. Chairman --

25 **MR. MASHBURN:** Sorry.

1 **MR. WILLARD:** -- remember there is a consent
2 order as well as a final order.

3 **MR. MASHBURN:** Thank you for that
4 clarification.

5 So is there a motion to accept the consent
6 order and the final order in case number 2020-36?

7 Thank you for that qualification.

8 Is there a motion?

9 **MS. GHAZAL:** So moved.

10 **DR. JOHNSTON:** So moved.

11 **MR. MASHBURN:** Is there a second?

12 **DR. JOHNSTON:** Second.

13 **MR. MASHBURN:** There's been a motion and a
14 second. Is there a discussion? Hearing no
15 discussion, we're ready to vote. All those in
16 favor would say aye.

17 **THE BOARD MEMBERS:** Aye.

18 **MR. MASHBURN:** All those opposed would say
19 no. Carries unanimously.

20 Okay, if we could move to the next case,
21 please.

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

23 This is a final order, proposing to resolve
24 2020-69[sic], Pickens County. This involves a
25 poll watcher who attempted to move from the

1 designated area for poll watchers to a vantage
2 point closer to the registration table. When
3 asked to return to the designated area, she
4 engaged in a verbal altercation between the poll
5 manager and herself and the sheriff's department
6 was called to the polling location.

7 This final order proposes to resolve the
8 matter with a cease-and-desist and a public
9 reprimand.

10 **MR. MASHBURN:** Comments, questions from the
11 board? Hearing no comments or questions, we're
12 ready to entertain a motion to approve and
13 enter -- and execute this final order. Is there
14 such a motion?

15 **MR. LINDSEY:** So moved.

16 **MR. MASHBURN:** There's been a motion to
17 approve and execute the final order in case
18 number 2020-269. All those in favor -- is there
19 -- is there --

20 **DR. JOHNSTON:** A second?

21 **MR. MASHBURN:** Is there a second? Thank
22 you. Is there any discussion? Hearing no
23 discussion, we're ready to vote. All those in
24 favor would say aye.

25 **THE BOARD MEMBERS:** Aye.

1 **MR. MASHBURN:** All those opposed would say
2 no. Passes unanimously.

3 We're ready to continue to the next case,
4 please.

5 **MR. WILLARD:** The final item on the Attorney
6 General's report concerns respondent Sherdon(ph)
7 Rusome(ph) Reynolds, SEB case number 2021-328.
8 It involves a finding that this individual
9 engaged in photography at the polls and the
10 proposed final order incorporates a
11 cease-and-desist and a public reprimand so that
12 this individual does not engage in photography at
13 the polls going forward in violation of the
14 election code.

15 **MR. MASHBURN:** Are there any questions or
16 comments from the board? Hearing no questions or
17 comments, the board is ready for a motion to
18 adopt this consent order, final order. Consent
19 or final order?

20 **MR. WILLARD:** Final order.

21 **MR. MASHBURN:** Final order. All those -- is
22 there a motion?

23 **MR. LINDSEY:** So moved.

24 **MR. MASHBURN:** There's been a motion to
25 adopt the final order and execute it. Is there a

1 second?

2 **DR. JOHNSTON:** Second.

3 **MR. MASHBURN:** Okay, there's been a motion
4 and a second. Any discussion? Hearing no
5 discuss --

6 **DR. JOHNSTON:** Brief discussion.

7 **MR. MASHBURN:** Okay.

8 **DR. JOHNSTON:** As far as photography, I
9 totally agree that there should be no photography
10 while voting is taking place. But I would like
11 to make a point. Once the election is over and
12 the polls have closed, that photography in areas
13 that don't involve personal identifying
14 information or photography of private information
15 like passwords that -- photography in my opinion
16 is okay with regards to, you know, photographing
17 tabulation or processes that are going on in the
18 election area. It should all be public. So why
19 not allow photography?

20 (Applause)

21 **MR. MASHBURN:** George Balbona had jazz hands
22 on that one.

23 **DR. JOHNSTON:** I saw that, George.

24 **MR. MASHBURN:** I think I -- okay, so if
25 there's no further discussion, we are ready to

1 take a mo -- we are ready to vote. All those in
2 favor would say aye.

3 **THE BOARD MEMBERS:** Aye.

4 **MR. MASHBURN:** All those opposed would say
5 no. Okay, motion passes unanimously.

6 **MR. WILLARD:** That concludes the Attorney
7 General's report, Mr. Chairman.

8 **MR. MASHBURN:** That concludes the Attorney
9 General's report and we thank you very much for
10 your service and the excellent presentations and
11 the hard work that's gone into resolving these
12 issues on behalf of the board. We couldn't --
13 literally couldn't do this without you. So thank
14 you very much. We appreciate your hard work.

15 **MR. WILLARD:** Thank you, Mr. Chairman. And
16 I will -- even though you have been dismissed as
17 a defendant, I will apprise the board of how
18 tomorrow's hearing goes in front of Judge Jones.

19 **MR. MASHBURN:** Well, thank you on both
20 counts, for having us dismissed and keeping us
21 informed. Thank you very much.

22 **DR. JOHNSTON:** (indiscernible) special.
23 Thank you.

24 **MR. MASHBURN:** Now, one of the things that
25 the board does very frequently -- if you're not

1 an avid watcher of the board's meetings, you
2 don't know -- probably don't know about this, but
3 one of the things we do is frequently we'll take
4 cases out of order in order to accommodate
5 requirements of lawyers who have to be in
6 courtrooms throughout the state. So we do that
7 as an accommodation to judges that are working
8 hard for the public and keep their calendars
9 on -- on schedule and to not increase the burden
10 on respondents that they have to pay additional
11 attorneys' fees in addition to whatever -- there
12 might a penalty or a fine that's imposed, so that
13 we don't increase that.

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

15 **General's Office**

16 **MR. MASHBURN:** So one of the cases that the
17 board has asked and has been granted by unanimous
18 consent to be taken out of order is case number
19 2020-263, Monroe County. 2020-263, Monroe County
20 case.

21 And Mr. Olens is here. Sara's here. I
22 forgot --

23 **UNIDENTIFIED SPEAKER:** (inaudible)

24 **MR. MASHBURN:** -- is here. Normally we
25 would let y'all present from your desk. If

1 you're at a desk, you have a microphone. So I'll
2 turn on your microphone at the appropriate time.
3 And if somebody who has a desk would make
4 available for our counselor here to be able to
5 speak, that be a big favor to the board. We'd
6 appreciate it.

7 Okay. So this matter is, for the board's
8 purposes, tab number 40. Tab number 40. Tab
9 number 40. Give you a second -- give you a few
10 minutes to get there.

11 Mr. Cross has offered up a microphone.
12 Thank you, Mr. Cross. Appreciate that.

13 On the brass panel in front of you, you'll
14 see a little button that says "speak" or "talk"
15 or something. So at the appropriate time, if
16 you'll just press that button. Yeah, he's going
17 to use one next. Okay.

18 Okay. So if the Secretary of State's Office
19 is ready to present, we are ready to hear. The
20 floor is the Secretary of State's.

21 **MS. KOTH:** Case number 2022-63, Monroe
22 County nomination petition. On December 16,
23 2020, the investigator received a complaint
24 alleging various procedural violations during the
25 circulation of a nomination petition for

1 independent Monroe County commissioner candidate
2 Lamarcus Davis. These allegations consisted of
3 Lamarcus Davis falsely declared he was the sole
4 circulator of a 15-page nomination petition;
5 Lamarcus failed to certify each page of the
6 nomination petition with a circular affidavit;
7 the forged signatures on nomination petition;
8 duplicate signatures on the petition; forged and
9 duplicate signatures.

10 There were three citizens -- Prentice
11 Shannon, Bree Shannon, and Wanda Shannon who
12 denied having signed the nomination petition. It
13 was strongly suspected that a family member named
14 Kimberly Shannon signed their names. Although
15 she denied that she actually signed the names,
16 her signature closely resembled the signatures
17 appearing on page 4, lines 2, 3, and 4, of the
18 petition.

19 Candidate Lamarcus Davis falsely swore that
20 he was the sole circulator of the nomination
21 petition. He completed one circular affidavit
22 for all names to be considered for the name to
23 appear on the ballot as an independent candidate
24 for Monroe County commissioner.

25 The investigation revealed that Davis and

1 his mother, Barbara Davis, and others obtained
2 names for the petition.

3 Miss Furlow(ph) accidentally signed in two
4 places on the nomination petition. That was page
5 5, lines 5 and 6.

6 Kaye Warren and the elections and
7 registration office qualified candidate Lamarcus
8 Davis using a nomination petition with errors and
9 defects. It was stated that this was a training
10 issue and more training was requested so this
11 error would not happen again.

12 Ms. Taylor Bittick signed her husband's
13 name, Lawson Bittick, on a nomination petition
14 with his express consent and permission. The
15 potential violations found were that Monroe
16 County Board of Elections and Registration, Kaye
17 Warren, violated O.C.G.A. 21-2-171, the
18 examination of a nomination petition.

19 Lamarcus Davis and Barbara Davis violated
20 O.C.G.A. 21-2-170(d) by failing to complete
21 circulatory affidavit for each page of the
22 obtained signatures.

23 Lakeisha(ph) Furlow violated O.C.G.A.
24 21-2-170(c), nomination of candidates by a
25 petition, by signing the nomination more than

1 once.

2 Kimberly Shannon and Taylor Bittick,
3 respectively, violated O.C.G.A. 21-2-170(d)(2) by
4 manually signing a name on the petition other
5 than their own.

6 **MR. MASHBURN:** Does that --

7 **MS. KOTH:** That's it.

8 **MR. MASHBURN:** -- complete your
9 presentation? Any questions by the board for the
10 Secretary of State's investigators? Okay.
11 Hearing none, Mr. Attorney -- we have the honor
12 of having the former attorney general with us
13 today, Sam Olens.

14 So by virtue of your public service, you get
15 to go first among your other attorneys. So,
16 please, let's hear what you have to say.

17 **MR. OLENS:** (inaudible)

18 **MR. MASHBURN:** You should be on now.

19 **MR. OLENS:** Okay, thank you. Thank you very
20 much. It's a pleasure to be in front of you
21 today.

22 I have the pleasure to represent Kaye
23 Warren, the election supervisor (mic feedback).

24 **MR. MASHBURN:** Hang on. That's me. Okay.

25 **MR. OLENS:** Her one colleague is also here

1 today. It's a two-person office, small rural
2 county. The county chair, Greg Tapley, is also
3 here today to show his seriousness about this
4 matter as well as his support, frankly, of the
5 election supervisor. And, of course, Ben Vaughn
6 is here. He is the county attorney. So if I
7 mess anything up, he'll tell me and you.

8 So in essence --

9 **MR. MASHBURN:** I've got a -- I've got a
10 little bit of a technical dilemma here in that if
11 I try to turn your volume up, I'm going to get
12 the feedback. So I'm going to need you to hold
13 it closer.

14 **MR. OLENS:** Okay.

15 **MR. MASHBURN:** Yes, sir.

16 **MR. OLENS:** I'll make believe I'm a --

17 **MR. MASHBURN:** Thank you very much.

18 **MR. OLENS:** Thank you. So in essence, as it
19 relates to the registrar for elections, it states
20 she accepted a petition with forged and duplicate
21 signatures.

22 Now, I would suggest to you, sir and ma'am,
23 there's no way a registrar has any training to
24 know a forged signature. She has no background
25 on signatures. She has no ability to do that.

1 With regard to duplicate signatures, Miss Warren
2 went through page by page. The candidate needed
3 a hundred thirty-six signatures to qualify. He
4 submitted 15 pages with 210 signatures.

5 After going through each page, he still had
6 more than a hundred and thirty-six signatures.
7 So she did, in fact, look at duplicate signatures
8 and, in fact, disregarded them which is exactly
9 what's required by 21-2-171(a)(3). That's the
10 express meaning of that subsection.

11 She did talk to him when he first told her
12 that he wanted to run as an independent
13 candidate. He did give her a package with
14 materials, but Miss Warren also called all of her
15 neighboring community registrars. Not one had
16 ever dealt with an independent candidate before.

17 And once again let me mention we're not
18 talking about Cobb, DeKalb, Fulton, Gwinnett.
19 We're asking an awful lot of a small, rural
20 county registrars office.

21 She then called the individual that she
22 generally would ask questions to in Macon. Now
23 keep in mind this is during the heat of COVID.
24 No return calls. Several attempts, no return
25 calls. I'm not for a second criticizing the

1 Secretary of State's Office. I think they had
2 more on their plate at that point in COVID than
3 any office should ever have. As you recall, the
4 elections were -- the dates were changed, the
5 number of signatures were lessened. Clearly the
6 Secretary of State's Office was under an awful
7 lot of pressure and stress at that time.

8 Now, if you look at 21-2-170(d), it does use
9 the word "sheets." So technically the only
10 mistake Miss Warren made was she did not require
11 a separate certification sheet per page. There
12 was one certification page signed by the
13 independent candidate.

14 But if you go on the Secretary of State's
15 website and if you look up the nominating
16 petition for independent campaigns, at the bottom
17 of each page it says page number and then there's
18 a blank line where you put 1, 2, 3, 4. But when
19 you print the petition, it's two pages. One page
20 is the nominating petition, the next page is the
21 certification.

22 If you follow the statute, the signature for
23 certification is either supposed to be at the
24 bottom of the page or it's supposed to be on the
25 back of the page. So when you print the page

1 from the Secretary of State's website, that page
2 is inconsistent with the statute. So we're now
3 asking the Monroe County registrar to do better
4 than what the website regarding independent
5 candidates does.

6 Miss Warren and her assistant were both in
7 Athens last week for a four-day training. The
8 acting chair, in his infinite public service,
9 attended that meeting in Athens. Zero minutes of
10 that multi-day training was on independent
11 candidates.

12 Now, let's be honest. How often does a
13 county deal with an independent candidate? I'm
14 sure there are a lot of other sections of
15 Georgia's election law that take a lot more time.
16 But once again we're asking the small, rural
17 county to know every little indicia of Georgia
18 law in this regard.

19 When an investigator came to Miss Warren's
20 office and asked for copies of documents, she
21 readily gave it to him and he told her not to
22 worry about it. And she didn't worry about it
23 until she got a one-page letter from the
24 Secretary of State's -- from the State Election
25 Board telling her that there would now be a

1 hearing for today.

2 Of note, that one page, it's not dated, it's
3 not signed. So once again we want the registrar
4 of Monroe County to act like a 20-year lawyer on
5 election law. But I can't imagine any state
6 agency is supposed to be sending out documents
7 without a date and without a signature. But
8 that's what we have.

9 Now, we acknowledge that she made a clerical
10 mistake. It should've been fifteen
11 certifications rather than one. That's the only
12 thing she did wrong. And I would suggest to you
13 that the solution to that mistake is training.
14 Not more and better training, but training
15 because frankly she's never received training to
16 date on independent candidates.

17 So I think the result of this matter as it
18 relates to Miss Warren is that when all of the
19 registrars next get together, noting next year is
20 going to be a different election year, there's
21 got to be specific training on independent
22 candidates. And Miss Warren and her assistant
23 are readily available to come to either Macon or
24 Atlanta, any day in between then that the State
25 Elections Board and the Secretary of State's

1 Office wants, to get separate training on
2 independent candidates.

3 We all know that training helps you do a
4 better job for the citizens of our state and
5 Miss Warren and her office want to do an
6 exemplary job for the citizens of Monroe County
7 and the state of Georgia.

8 So you'll now be hearing from other counsel
9 with regard to other parts of the case. The only
10 part that really relates to Miss Warren is what I
11 mentioned before, the certification and the fact
12 it was one versus fifteen. And I would suggest
13 to you that's not a matter that should be
14 referred to the Attorney General's Office.
15 That's a matter where there should be a letter
16 stating you've agreed to training on independent
17 candidates; we're giving you training on
18 independent candidates. But at the same time, I
19 think this board should suggest that all
20 registrars receive training on independent
21 candidates.

22 Thank you very much for your time.

23 Yes, Mr. Chair?

24 **MR. MASHBURN:** Questions for Mr. Olens by
25 the board? Any questions by the board for

1 Mr. Olens? You are -- Dr. Johnston.

2 DR. JOHNSTON: Mr. Olens, to your knowledge,
3 or maybe somebody from the Secretary of State, is
4 there a training video for independent candidate
5 petitions?

6 MR. OLENS: I would defer to the office. If
7 there is one, we'd love to view it. I'm not
8 being sarcastic. We -- we all agree training
9 would be helpful, training would be necessary.
10 But Miss Warren has been the registrar, I
11 believe, since 2017. And in that time frame she
12 hasn't had training with regard to independent
13 candidates.

14 DR. JOHNSTON: Or even in a procedural
15 manual or some written instruction available?

16 MR. OLENS: She gave the candidate what was
17 on the website which includes the petition and
18 certification that's inconsistent with the
19 statute.

20 DR. JOHNSTON: Thank you.

21 MR. OLENS: Thank you, Doctor.

22 MR. MASHBURN: Other questions by other
23 members of the board? Sara Ghazal?

24 MS. GHAZAL: I would move that we -- that we
25 take this case apart and -- for each individual

1 respondent and dispose of -- dispose of each
2 individual respondent separately.

3 **MR. MASHBURN:** Okay. There's a unanimous
4 consent motion on the floor to allow this case to
5 be bifurcated or trifurcated and the individual
6 respondents be treated individually.

7 Is there any objection? Without objection,
8 so ordered. So do you have questions or a
9 motion?

10 **MS. GHAZAL:** I have a motion that we issue a
11 letter of instruction to the county because it is
12 clear in the statute that individual signatures
13 for each page are necessary. And I -- but I do
14 not see this as rising to a need for a referral
15 to the Attorney General's Office.

16 **MR. MASHBURN:** Okay. There's been a motion
17 that this be handled by letter of instruction.
18 Is there a second to that motion?

19 **DR. JOHNSTON:** I would second.

20 **MR. MASHBURN:** There's been a second. Is
21 there discussion?

22 **DR. JOHNSTON:** If there is training
23 available for independent candidates, I would ask
24 that in the letter of instruction there be a
25 requirement to obtain training for such. And if

1 there's not, then this would be a good suggestion
2 to make to the Secretary of State's Office, to
3 provide this.

4 **MR. MASHBURN:** Okay. There's been a
5 unanimous consent motion that the motion be
6 amended to provide -- that training either be
7 obtained or be made available. Any objection to
8 that unanimous consent motion?

9 **MS. GHAZAL:** I can say that was a very
10 friendly amendment.

11 **MR. MASHBURN:** Okay. The motion is now
12 amended to provide for a letter of instruction
13 and that the county should either obtain training
14 or that training should be made available.

15 Any further discussion? Hearing none, we're
16 ready to vote on the motion to adopt a letter of
17 instruction against Monroe County with a further
18 instruction to obtain training or that if
19 training is not available, that it be made
20 available. All those in favor -- oh, sorry.

21 **MR. LINDSEY:** For the record, I have to
22 recuse myself from this particular individual.

23 **MR. MASHBURN:** Okay. Since this part of the
24 case has been trifurcated or bifurcated out,
25 separated out, board member Lindsey has recused

1 himself from this particular part of the aspect
2 of the case and that does not require a motion
3 and so that is granted.

4 So now we restate the question. The
5 question before the board is to issue a letter of
6 instruction to Monroe County and that Monroe
7 County either obtain training on the issue or
8 that it be made available to them.

9 Any further discussion? Hearing no further
10 discussion, we're ready to vote. All those in
11 favor would say aye.

12 **THE BOARD MEMBERS:** Aye.

13 **MR. MASHBURN:** All those opposed would say
14 no. That part of the case has been concluded.

15 Thank you, Attorney General Olens, and
16 unless you'd like to stay for the remainder of
17 this case, you are dismissed and free to go.

18 **MR. OLENS:** Thank you very much.

19 **MR. MASHBURN:** Okay. Of our assembled,
20 esteemed counselors, who'd like to go next?

21 Please identify yourself for the record.
22 Thank you, sir.

23 **MR. VAUGHN:** I was here with Mr. Olens on
24 the county's portion of the case. I think it's
25 probably Mr. Welch is next or either the

1 gentleman standing --

2 **MR. MASHBURN:** I didn't even look in your
3 direction. I'm so sorry. You -- were you up
4 first? Did you stand first? We should take
5 you -- I didn't even look in your direction. I'm
6 so sorry. Please identify yourself for the
7 record and press the button and I'll turn your
8 mic on. You're good to go. I'm sorry I didn't
9 look in your direction. I was faced to my left.
10 I apologize.

11 **MR. HALL:** Not a problem. My name is Travis
12 Hall. I'm the attorney for Mrs. Taylor Bittick
13 and Mr. Lawson Bittick named in the petition.
14 Ms. Bittick is accused of putting her husband's
15 name on the petition, which she did. She was at
16 home and her friend Lamarcus Davis came to the
17 door, asked if she'd like to sign his petition,
18 which she did. And she happened to have her
19 husband on the phone at that time and asked him
20 on the phone, Do you want to put your name on
21 this petition? He said yes. And so she wrote
22 his name. She didn't sign it. She printed his
23 name. She did not know that was in violation and
24 had no intent to deceive anyone, had Mr. --
25 Mr. Bittick's express consent to do so.

1 And we believe that a letter of instruction
2 would be appropriate. This is not a matter that
3 I think needs to be referred to the Attorney
4 General's Office. Ms. Bittick did not
5 disenfranchise anybody. Mr. Bittick is here and
6 more than willing to state that he was on the
7 phone at the time and asked her to put his name
8 down.

9 And I believe the investigator's report is
10 accurate as to Mr. and Mrs. Bittick. And that's
11 really all that we have.

12 **MR. MASHBURN:** Questions from the board?
13 Mr. -- board member Lindsey is recognized, has
14 the floor.

15 **MR. LINDSEY:** What does your client do for a
16 living?

17 **MR. HALL:** She's an attorney. I -- I would
18 point out to the board that Ms. Bittick is a
19 civil defense attorney. She is not an election
20 law expert. And in our profession, we routinely
21 sign with express permission from others,
22 particularly others in your firm. This was not
23 something that seemed out of line or out of the
24 ordinary in the normal course of practice.
25 Pleadings are often signed by somebody else with

1 express permission.

2 **MR. MASHBURN:** Mr. Lindsey still has the
3 floor.

4 **MR. LINDSEY:** Yeah. I'm still trying to
5 figure it out -- that out, you know, given the
6 fact that it is a petition. And I do recognize
7 that -- you know, it is helpful that she had her
8 husband on the line at the time, but I do think
9 lawyers are held to a higher standard. I hope
10 you understand that.

11 I don't think her intent was to deceive, as
12 shown by the fact that she asked her husband.
13 But I do hold lawyers to a higher standard and
14 that's sort of a comment on my part. And that's
15 what I'm struggling with here. If she was a
16 layperson who had talked to her husband and then
17 printed his name, I'd -- I'd be a lot -- I'd be a
18 lot more understanding. But as an attorney I
19 must admit I'm struggling a bit with that. You
20 can respond or you cannot. I'm just -- that's
21 just -- I'm just letting you know what I'm trying
22 to figure out here.

23 **MR. HALL:** Ms. Bittick would like to
24 respond.

25 **MR. LINDSEY:** Sure.

1 **MS. BITTICK:** Good morning. Sure, I'm an
2 attorney. I certainly was not thinking like one
3 when my friend -- Mr. Davis is a family friend of
4 ours.

5 **MR. LINDSEY:** Yeah.

6 **MS. BITTICK:** We knew he was trying to run
7 for office. I believe it was a Friday evening he
8 came by. I was on the phone with my husband,
9 said, Hey, Lamarcus is here at the door. He
10 said, Yeah, you know, I'm trying to run for
11 office; I was just trying to collect -- trying to
12 get this petition signed. I put my name down.
13 My husband said, Yeah, put me down.

14 Certainly I was not thinking about a
15 lawyer -- like a lawyer or thinking about
16 election law. Certainly now I've been educated
17 that what I did was wrong. I'm embarrassed; I'm
18 apologetic. I apologize to the board and I
19 apologize to Lamarcus. It was certainly not my
20 intent to cause any flaws in his nomination
21 petition.

22 **MR. LINDSEY:** Understand. Thank you.

23 **MR. MASHBURN:** Mr. Lindsey still has the
24 floor.

25 **MR. LINDSEY:** (indicating)

1 **MR. MASHBURN:** Okay, Mr. Lindsey yields the
2 floor. You said that Mr. Bittick is here?

3 **MR. HALL:** Yes. Yes, Mr. Bittick is right
4 here.

5 **MR. MASHBURN:** Mr. Bittick, I hate to put
6 you on the spot against your will, but I know
7 Dr. Johnston always like to hear from the other
8 person. So I'll go ahead and anticipate her
9 question and let you have -- you have a time. Do
10 you have the same microphone or do you need
11 another --

12 **MR. BITTICK:** The same microphone.

13 **MR. MASHBURN:** Okay, very good. Was the
14 representation that you were on the phone -- do
15 you agree with that and all?

16 **MR. BITTICK:** It was accurate, yeah.

17 **MR. MASHBURN:** Give us kind of your side of
18 the story on that issue if you would.

19 **MR. BITTICK:** Well, I was working. We
20 were -- I was talking to my wife, like any other
21 time. She said somebody's knocking at the door.
22 And it was Mr. Lamarcus, wherever he went, and
23 that was it. She just simply asked would I sign
24 the petition. And I would. I would tomorrow.

25 **MR. MASHBURN:** And so had you been there at

1 the house, you would've -- you would've gladly
2 signed it your own self in person?

3 **MR. BITTICK:** Absolutely. Absolutely.

4 **MR. MASHBURN:** All right. Other members of
5 the board like to ask --

6 Thank you, Mr. Bittick, I appreciate it. I
7 don't know if you were -- you were prepared to be
8 on the spot, but I appreciate ...

9 **MR. LINDSEY:** At the appropriate time.

10 **MR. MASHBURN:** Okay. Any other discussion,
11 comments by the board? Mr. Lindsey has the floor
12 for a motion.

13 **MR. LINDSEY:** Yeah, two things that I was
14 taught as a young lawyer: Lawyers should never
15 make a mistake. Number two, lawyers do make
16 mistakes. And when you do, you have to own up to
17 it. And I appreciate the fact that you've owned
18 up to it. It is -- however was a mistake. I
19 don't believe it rises to -- given the fact that
20 you were talking with your husband and you had
21 his express consent, I don't necessarily think it
22 rises to the level of sending it to the Attorney
23 General's Office. In part, quite frankly,
24 because we send a lot more serious matters to the
25 Attorney General's Office and I like to try to

1 handle things right here and now.

2 So for that matter, I am going to make a
3 motion for a letter of reprimand to -- and to
4 complete the case.

5 **MR. MASHBURN:** And that -- would that
6 include both Kimberly Shannon and Taylor Bittick?
7 Or ...

8 **MR. HALL:** I'm not here on behalf of --

9 **MR. LINDSEY:** No, that didn't include
10 Shannon.

11 **MR. MASHBURN:** Okay. Okay.

12 **MR. LINDSEY:** We'll deal with them
13 separately and that may -- I may have a different
14 opinion on them.

15 **MR. MASHBURN:** All right. So give me the
16 name of the defendant so I can state the motion
17 accurately.

18 **MR. HALL:** Taylor -- Taylor Bittick.

19 **MR. MASHBURN:** Okay, Taylor Bittick. So
20 we're only dealing with Taylor Bittick right now.
21 There's been a motion by board member Lindsey to
22 issue a letter of reprimand for Taylor Bittick.
23 Any -- is there a second?

24 **MS. GHAZAL:** Second.

25 **MR. MASHBURN:** There's been a motion and a

1 second. Discussion? Hearing no discussion,
2 we're ready to vote. All those in favor would
3 say aye.

4 **THE BOARD MEMBERS:** Aye.

5 **MR. MASHBURN:** All those opposed would say
6 no. Okay, the motion carries and a letter of
7 reprimand will be issued to Taylor Bittick.

8 **MR. LINDSEY:** Accept as a learning
9 experience.

10 **MR. MASHBURN:** Thank you for your
11 presentation, counselor. You did a good job for
12 your client. So, well done. Thank you.

13 Next attorney on the list, please identify
14 yourself for the record. And I'll -- I think
15 you're going to share Nadine's microphone. If
16 Nadine -- Nadine is the keeper of microphone
17 number one. So let's please identify yourself
18 for the record.

19 **MR. WELCH:** Good morning, Mr. -- members of
20 the board.

21 Nadine, thank you for the microphone and
22 letting me occupy a little of your space here.

23 My name is Andy Welch. I represent
24 Commissioner Lamarcus Davis. I'm with the law
25 firm of Smith, Welch, Webb, and White.

1 And we are here today to discuss the
2 concerns that the board and the investigators
3 have had with the petition signing process that
4 underwent the election in Monroe County in 2020,
5 during the height of COVID. Commissioner Davis,
6 at the time running for his first time in office,
7 was running as an independent candidate. Never
8 had run for office before.

9 He was running against a multi-term
10 commissioner of the Democratic party. He
11 obtained 210-plus signatures on the petitions.
12 He did that with the help of his mother and his
13 step-grandmother -- Is that right? -- and
14 himself. It is 74 more signatures than what was
15 required by law at the time with the COVID
16 executive orders.

17 Now, mind you, of course, remember in the
18 executive orders we had social distancing,
19 six-foot separation, executive orders that
20 precluded nonfamily members from gathering with
21 ten people or more. And you're trying to go
22 around and secure signatures during the election
23 process to be on the ballot.

24 And we already know that our First Amendment
25 rights and our Fourteenth Amendment rights

1 entitle our citizens to engage in the electoral
2 process and to be on the ballot provided they
3 follow the processes that are set by state law.

4 During the pandemic the -- Mr. Davis went
5 around and secured signatures for his petition.
6 Prior to that, he had approached the registrars
7 office of Monroe County and asked for
8 instructions on what to do in that regard, not
9 having done that before.

10 The registrars office gave him an envelope.
11 Again, social distancing, keeping separation.
12 The envelope is here. It contained a petition,
13 the forms that come off of the Secretary of
14 State's website. It has three stickers with
15 instructions. And I'll bring it to you in a
16 minute. I'll read them off. First it says,
17 "Monroe County Board of Elections," sticker
18 number one. Sticker number two: "Petitions may
19 be submitted no earlier than June 22, 2020, at
20 9 a.m. and no later than July 14, 2020, at 12
21 noon."

22 **MR. MASHBURN:** Sorry to interrupt you,
23 counselor. Do you want the board to see that?

24 **MR. WELCH:** I do, yes.

25 **MR. MASHBURN:** Okay. I'm going to have Alex

1 come up to you --

2 **MR. WELCH:** I was reading it for you --

3 **MR. MASHBURN:** -- and bring that to the
4 board so the board can have a look at that.

5 **MR. WELCH:** Yes. And then the last sticker
6 says, "Petitions must have 250 names of
7 registered voters." This is the extent of the
8 instructions that Mr. Davis was given in terms of
9 what to do with petitions. This is the envelope.

10 And then I'll also give you a certified
11 copy -- Alex, if you would -- of all of the
12 petitions that are in the record from Monroe
13 County. And you'll notice the certification is
14 particular.

15 Certification says that these are the
16 documents received, both front and back. And
17 that is important because as was -- attorney
18 Olens had mentioned earlier, the statute requires
19 that the form that is produced by the registrar's
20 office or the Secretary of State's Office, that
21 each sheet of a petition -- a petition can be
22 multiple sheets, but each sheet shall have at the
23 bottom or on the back of the sheet the circular's
24 affidavit.

25 Now, why is that important? Well, the

1 circular's affidavit in and of itself provides
2 instructions on what is required. The circular's
3 affidavit under our code section -- that's under
4 code section 21-2-170(d) is the requirement for
5 the circular's affidavit to be on the sheet and
6 on the petition, which it is not. And that's
7 what we -- that's what you have before you.

8 On that circular's affidavit, it says -- it
9 gives instructions to who circulated it. It
10 could be anyone. Doesn't have to be the
11 candidate. He can have people do it for him as
12 long as they're signing the circular's affidavit.
13 But it provides instructions. One, it says that
14 they're duly sworn under oath; that they
15 personally circulated the foregoing sheet,
16 singular; and that he resides at the address
17 below; and that he saw the signer manually sign
18 his or her name on the sheet with full knowledge
19 of contents; and that to the best of knowledge
20 and belief, the signers are registered electors
21 in the state of Georgia, qualified to signed such
22 a petition; and that they -- and their residences
23 are the correct residences.

24 So that affidavit provides much-needed
25 instructions that clearly the envelope does not

1 provide. And so with that document, had that
2 been available on each sheet, then obviously
3 there would've been instructions to follow. And
4 then when dispersing those petitions, if it was
5 on the front of the petition or even on the back
6 of each petition, then the person receiving it,
7 whoever that may be -- his mother or someone
8 else -- would know, okay, I have to watch these
9 signatures, I have to confirm this information,
10 and then I can sign the affidavit. None of that
11 information is provided here.

12 And I think the board is well aware. We
13 have a constitution that says that we -- we
14 provide certain due processes of notice to each
15 and every person that's engaged in an activity.
16 And in the context if a statute requires that
17 there be language on a particular government
18 document and it is not there, there is a failure
19 of due process in that. There is a failure
20 that's a vagueness, if you will, with the form
21 and it makes it near impossible for someone to
22 follow the law if the form presented by the
23 government is defective.

24 So with that, what we have looked at for
25 you -- and there are numerous cases that we've

1 dealt with in our state where notice and forms
2 are required, notice to the individuals of what
3 is being demanded present a due process violation
4 if it's not there, that notice is not given.
5 It's in the context of zoning, in the context of
6 criminal law, in the context of state school
7 board law, all requiring that notice be
8 available, especially when the statute says it
9 shall be there.

10 So with that before you, I would want to
11 turn to a couple of things. One is that there
12 are two cases that I would like you to be aware
13 of. First, that deals with irregularities. In
14 1988 the Georgia Supreme Court looked
15 specifically at a petition that had signatures on
16 it. And in that petition the court had found
17 that the -- that there were some irregularities.
18 There were signatures that weren't supposed to be
19 on there. There were -- let me get to the right
20 page. Yeah, in *Parker v McCants*, 258 Ga 364, the
21 election superintendent of Taylor County appealed
22 the judgment that validated a petition. There
23 were irregularities in the petition. The
24 petition had circulars that -- signed that were
25 not -- should not have signed the petition.

1 There were electors in the petition that -- that
2 signed. They were circulating and they signed
3 the petitions. They should not have. There was
4 other defects in that petition.

5 But the Georgia Supreme Court upheld the
6 petition and upheld the moving forward with the
7 ballot petition and it being voted on. And
8 that's because they concluded that the
9 irregularities were technical in nature -- and
10 then these are clerical in this particular case
11 as well -- that they were -- that the person was
12 afforded the opportunity to be on the ballot.

13 Now, it's difficult -- what I would ask is
14 this, is that -- the investigators also went
15 through and checked the signatures that are on --
16 that are on the petition. And I think they found
17 a few that were erroneous. And I think the point
18 of having that affidavit is so that when the
19 petitioner submits it, the state, the people can
20 have some reasonable assurance that all the
21 signatures, they were witnessed.

22 Mr. Davis did witness signatures on some of
23 the petitions but not all of them. His mother
24 witnessed some of them but not all of them. His
25 step-grandmother witnessed some of them but not

1 all of them. And so the signed -- the signed
2 oath is the signed oath that he did witness the
3 signatures on at least one sheet. And that's
4 what the oath requires. And our state has been
5 very clear and the decisions of the court of
6 appeals have been very clear that if the oath --
7 you can only swear to what the oath says. You
8 can't make affirmations or declarations or
9 swearing beyond the scope of the actual oath.

10 And Mr. Davis, then candidate Davis -- or
11 trying to be a candidate Davis -- had only sworn
12 to the one single sheet and that's what the oath
13 says. And I think you may have a copy of that in
14 your records, of what the oath says in its
15 entirety. And it only speaks to one sheet. It
16 does not speak to multiple sheets, the whole
17 petition, or anything of the same.

18 And to the extent that you would like to --
19 if you don't have a copy of it, I have a copy
20 here for you to look at if you needed it. You do
21 have it?

22 **MR. LINDSEY:** Yes, we've got it.

23 **MR. WELCH:** Okay. So you'll see there that
24 the oath itself speaks that -- speaks to the
25 foregoing sheet and it is singular. It is not

1 multiple. With that, we would ask that -- that
2 the board consider the circumstances. We would
3 ask the board consider the exact language of the
4 statute and the oath itself and that in your
5 wisdom we would ask that you look at a letter of
6 instruction to Commissioner Davis.

7 I don't think that this is going to ever be
8 a problem for Commissioner Davis now that he's an
9 incumbent, but I think that to the extent the
10 board needs to make a public statement to the
11 commissioner and to the public as a whole that
12 each and every form must be signed with a
13 circulator's affidavit, that does make sense to
14 us.

15 With that I'll close and ask that I hope you
16 do not penalize Mr. Davis for what amounts to be
17 a clerical problem with the form. Thank you.

18 **MR. MASHBURN:** Thank you for your
19 presentation.

20 Comments or questions from members of the
21 board?

22 **MR. LINDSEY:** Yeah.

23 **MR. MASHBURN:** Mr. Lindsey has the floor.

24 **MR. LINDSEY:** Thank you.

25 You know, there are two very separate issues

1 here. One is whether or not there's enough
2 petitions here to put him on the ballot. And
3 then there's a -- and there's no question about
4 that.

5 The second question is whether or not he, in
6 obtaining the number of signatures, engaged in an
7 irregularity that made it more difficult for the
8 registrar to determine whether or not he should
9 be on the ballot.

10 And therein lies the problem. If I
11 understand correctly, this is the only sheet that
12 he submitted; is that right?

13 **MR. WELCH:** That's correct. When he went to
14 the office, she asked him to sign that --

15 **MR. LINDSEY:** Yeah. So it was either -- so
16 it -- you know, it either led her to believe that
17 he had, in fact, actually personally witnessed
18 all of the signatures rather than the
19 technicality that the word "sheet" is singular
20 rather than plural.

21 And, you know, therein lies the difficulty
22 that we have here, in that by virtue of how he
23 chose to do so. But all he really had to do was
24 to get his -- his wife? --

25 **MR. WELCH:** Mother and step-grandmother.

1 **MR. LINDSEY:** -- mother and step-grandmother
2 to also sign on, would have assisted the
3 registrar in determining that these were, in
4 fact, a valid petition. And therein lies the
5 problem with simply dismissing the case.

6 **MR. WELCH:** Yes. May I --

7 **MR. LINDSEY:** Yes.

8 **MR. WELCH:** -- respond, Mr. Chairman?

9 Yes, I do believe that the candidate-elect
10 Davis did communicate to the registrar's office
11 that other people were helping with the
12 circulation of petitions. I don't think there
13 was any -- there's nothing intentional about it.
14 There certainly wasn't anything knowingly because
15 the certificate's not on the forms. And in
16 addition he disclosed that to her.

17 And I think this was part of the questions
18 that were trying to be relayed back and forth and
19 get instructions from the Secretary of State's
20 Office. But it was COVID. I mean, we just --
21 it's just near impossible to make those contacts.
22 And it made it difficult, but surely was --

23 **MR. LINDSEY:** I do recognize -- I didn't
24 mean to cut you off. I do recognize that there
25 certainly does appear to be some additional need

1 for instructions to be given to the -- both the
2 candidate and to the local officials on how to
3 handle these petitions. That's very clear and
4 abundant.

5 But given the fact that we've already seen
6 one irregularity and we're likely to see a couple
7 of others, you know, this sort of adds to the
8 importance of having the person who witnessed the
9 sheet to actually be the one who signs off on it.
10 I think what has happened here sort of shows why
11 that's so important.

12 **MR. MASHBURN:** Mr. Lindsey yields the floor.
13 Member Ghazal has the floor.

14 **MS. GHAZAL:** Thank you, Mr. Chairman. Did
15 Mr. Davis have any formal advisors in this
16 process? Did he secure an attorney or anyone to
17 help in this process?

18 **MR. WELCH:** No.

19 **MS. GHAZAL:** So he did it all on his own?

20 **MR. WELCH:** This was a do-it-yourself, DIY.

21 **MS. GHAZAL:** And there were no further
22 instructions aside from these stickers and that's
23 all the guidance that you received. When you
24 turned this in, did you get any other feedback
25 from the registrar's office about the -- about

1 the completeness of the petition package?

2 **MR. DAVIS:** No, ma'am, not to my knowledge.

3 **MS. GHAZAL:** Thank you. I don't have any
4 other questions.

5 **MR. MASHBURN:** Member Ghazal yields the
6 floor.

7 Dr. Johnston, would you like to be
8 recognized?

9 **DR. JOHNSTON:** Yes, Mr. Chairman.

10 **MR. MASHBURN:** Dr. Johnston has the floor.

11 **DR. JOHNSTON:** I guess the issue I probably
12 agree with Mr. -- with my colleague, member,
13 Mr. Lindsey that it's -- somebody needs to attest
14 to the signatures that are obtained with
15 petitions. So the technicality of signing for
16 one sheet is okay, but then someone needs to sign
17 for all of the other sheets to attest that these
18 are true and accurate, qualified voters,
19 electors.

20 So that's the issue. It's sort of like you
21 can't have it both ways.

22 **MR. WELCH:** Dr. Johnston, I couldn't agree
23 more. That's what the statute requires. But it
24 needs to be on the forms. The statute mandates
25 that it's on the form and that's our problem. We

1 have a form that when you go to the Secretary of
2 State's website and you pull it up, it's a
3 two-page form. They're separate.

4 And so if you're circulating a petition, you
5 hand that -- the petition form out, which is what
6 you have before you, and it doesn't have it at
7 the bottom which the law mandates or on the back.
8 And frankly I would prefer that it be on the
9 front of the page, you know, because that way if
10 you photocopy it, somebody doesn't make another
11 clerical error which is they don't photocopy both
12 sides, right? So if it's photocopied and it's on
13 the front, it's clear.

14 And so I do understand what you're saying,
15 Dr. Johnston. I just -- I think under these
16 circumstances it truly is a mistake and it's a
17 clerical one on sort of a group effort
18 unfortunately.

19 One other thing is that I do think it's
20 important that we -- that in the process of
21 investigating this, it's my understanding that
22 the investigators went through the signatures to
23 determine if there were forgeries there. And so
24 what they found was that out of the 210, I think
25 there was only -- there was a handful of those

1 that had that affidavit been on there, on the
2 form, than those things, I think, would've been
3 eliminated, those problems would be eliminated.

4 Thank you, Dr. Johnston.

5 **MR. MASHBURN:** Dr. Johnston yields the
6 floor.

7 **DR. JOHNSTON:** Yes.

8 **MR. MASHBURN:** We have now reached the
9 chance where we all -- the board members have had
10 a chance to ask comments -- ask questions, make
11 comments. We are ready for a motion.

12 **MR. LINDSEY:** One -- one last comment,
13 Mr. Chairman.

14 **MR. MASHBURN:** Mr. Lindsey has the floor.

15 **MR. LINDSEY:** It's apparent that we need to
16 clean up this process in that -- in terms of
17 making sure that folks running for office, folks
18 administering the office, and folks being asked
19 to sign off on a petition have a much clearer
20 understanding as to what they can and cannot do.

21 I have a difficult time necessarily faulting
22 the candidate or the registrar for a mistake when
23 there wasn't any clear instructions given. And
24 for that -- but that being said, I do think at
25 least a statement needs to be made that this --

1 because that this sort of thing cannot happen
2 again. I don't think it will happen again.

3 And so I would move for a letter of
4 instruction. And I hope my friends at the
5 Secretary of State's Office are here to go back
6 and figure out a way to make sure that this is
7 clarified for folks trying to run for office.
8 Because my suspicion is this will not be the last
9 time someone decides to run as an independent.
10 And we need to be able to have folks be able to
11 go through the process without there being some
12 kind of unforeseen landmine out there.

13 So for that reason, I move to -- for a
14 letter of instruction.

15 **MR. MASHBURN:** Okay, there's been a motion
16 made for a letter of instruction. Is there a
17 second?

18 **MS. GHAZAL:** Second.

19 **MR. MASHBURN:** There's been a motion and a
20 second for a letter of instruction to be issued
21 to Lamarcus Davis and Barbara Davis. Any
22 discussion? Hearing no discussion, we're ready
23 to vote. All those in favor would say aye.

24 **THE BOARD MEMBERS:** Aye.

25 **MR. MASHBURN:** All those opposed would say

1 no. Motion carries.

2 **MR. WELCH:** Thank you, members of the board.

3 Thank you for your time and service.

4 **MR. MASHBURN:** Counselor, unless anybody in

5 this case needs your input, you are excused. And

6 we have your evidence here. You're free to go.

7 (Handing documents to Mr. Davis)

8 **UNIDENTIFIED SPEAKER:** (indiscernible)

9 **MR. MASHBURN:** Wait a minute.

10 **UNIDENTIFIED SPEAKER:** (indiscernible)

11 **MR. MASHBURN:** Wait. Wait.

12 **UNIDENTIFIED SPEAKER:** (indiscernible)

13 **MR. MASHBURN:** All derogatory comments

14 overheard by the meeting are stricken from the

15 record. Okay. Thank you for bringing that to

16 our attention. I'll check and make sure that

17 nobody's got an open mic but the board right now.

18 Thank you for bringing that to my attention.

19 Okay. In the same case we have Lakeisha --

20 I hope I'm pronouncing that correct. Ms. Furlow?

21 **MS. FURLOW:** Yes.

22 **MR. MASHBURN:** Okay. If somebody would make

23 available a microphone for Ms. Furlow.

24 Would you like to join the -- microphone 1?

25 Nadine's been a true public servant today,

1 providing the microphone. I'll turn you on and
2 if you would identify yourself for the record,
3 please.

4 **MS. FURLOW:** My name is Lakeisha Furlow.

5 **MR. MASHBURN:** Lakeisha Furlow.

6 **MS. FURLOW:** That's correct.

7 **MR. MASHBURN:** Thank you. Welcome.

8 **MS. FURLOW:** Thanks.

9 **MR. MASHBURN:** The floor is yours.

10 **MS. FURLOW:** Okay. Basically on the --

11 **MR. MASHBURN:** We're going to ask you to
12 speak up.

13 **MS. FURLOW:** Okay. Well, basically on the
14 petition, I did accidentally put my name down
15 twice, in error. It wasn't anything that I
16 deliberately tried to do. And so when the
17 investigator came out, they did point that out to
18 me. And I wasn't sure how to correct that. So
19 basically he just told me to put a line through
20 it and initial it. And that's what I did with no
21 problem.

22 **MR. MASHBURN:** Okay. Questions from the
23 board?

24 **MR. LINDSEY:** Let me get this straight. You
25 simply signed your own name --

1 **MS. FURLOW:** My own name, yes.
2 **MR. LINDSEY:** -- twice.
3 **MS. FURLOW:** Yes.
4 **MR. LINDSEY:** Which was clearly your own
5 name twice.
6 **MS. FURLOW:** Yes, my name. No one else's
7 name.
8 **MR. LINDSEY:** So then anybody who was going
9 through it could see that --
10 **MS. FURLOW:** My name spelled the same way,
11 exactly like I do when I write it. So no one
12 else's. Mine.
13 **MR. LINDSEY:** At the appropriate time,
14 Mr. Chairman, I have a motion.
15 **MR. MASHBURN:** Okay. Other questions from
16 the board? Mr. Lindsey has requested the floor
17 for a motion.
18 **MR. LINDSEY:** In as much as clearly if you
19 were engaging in fraud, you did a very poor job
20 of it.
21 **MS. FURLOW:** I could never.
22 **MR. LINDSEY:** And you weren't. No, ma'am.
23 Ma'am, understand I'm making a joke. And I hope
24 you took it that way.
25 **MS. FURLOW:** I did. Certainly did.

1 **MR. LINDSEY:** You know, that clearly -- if
2 anyone looked -- and folks who did look at the
3 petition -- and I think the registrar even
4 mentioned that they saw some irregularities in
5 terms of people, that sort of thing. There's no
6 fraud here and there's no intent here and there's
7 no attempt to sign someone else's name.

8 **MS. FURLOW:** Correct.

9 **MR. LINDSEY:** And you were clearly not an
10 attorney.

11 **MS. FURLOW:** Correct.

12 **MR. LINDSEY:** From what I understand you're
13 not an attorney.

14 **MS. FURLOW:** I'm not.

15 **MR. LINDSEY:** I understood earlier that you
16 weren't one. So for that reason, I move to
17 dismiss.

18 **MS. FURLOW:** Okay, all right. Thanks.

19 **MR. MASHBURN:** There's been a motion to
20 dismiss. Is there a second?

21 **MS. GHAZAL:** Second.

22 **MR. MASHBURN:** There's been a motion to
23 dismiss and a second. Any discussion?

24 **DR. JOHNSTON:** I'd like to ask Ms. Furlow,
25 do you know that in the future you should not

1 sign the same petition twice?

2 **MS. FURLOW:** Never. Lesson learned. That

3 won't even happen again.

4 **DR. JOHNSTON:** We don't vote twice and we

5 don't sign petitions twice.

6 **MS. FURLOW:** Right. Right. Lesson learned.

7 **DR. JOHNSTON:** Thank you.

8 **MS. FURLOW:** Thanks.

9 **MR. MASHBURN:** Okay. So there's been a

10 motion and a second. Any further discussion?

11 Hearing none, we're ready to vote. All those in

12 favor of the motion to dismiss Lakeisha Furlow

13 would say aye.

14 **THE BOARD MEMBERS:** Aye.

15 **MR. MASHBURN:** All those opposed would say

16 no. And the motion carries unanimously.

17 And my records show that I still have

18 Kimberly Shannon open. Are you Kimberly Shannon?

19 Welcome. If you would step up, please. Would

20 you please identify yourself for the record.

21 **MS. SHANNON:** I'm Kimberly Shannon.

22 **MR. MASHBURN:** Do you have any comments to

23 the board that you'd like to make?

24 **MS. SHANNON:** No, sir.

25 **MR. MASHBURN:** Okay. Any questions for

1 Miss Shannon from the board?

2 **MR. LINDSEY:** If I may, this has been a
3 number of people. What was the allegation
4 against ... I apologize. I just, you know
5 (indiscernible).

6 **MS. KOTH:** The allegation was that she
7 signed her family members' names on the petition.

8 **MR. MASHBURN:** So, Miss Shannon, the
9 Secretary of State's investigators have reported
10 that there were three citizens -- Prentice
11 Shannon, Bree Shannon, and Wanda Shannon -- who
12 signed the -- who denied having signed the
13 nomination petition but their names were on it.
14 So do you have any information that you could
15 give to the board to explain what happened?

16 **MS. SHANNON:** Well, I do not recall signing
17 their names, but I know if I would've called them
18 and asked them, they would've gave me their
19 permission.

20 **MR. MASHBURN:** Mr. Lindsey looks like he's
21 going to want to have the floor in a second.
22 We've just got to give him a second to study.

23 Dr. John --

24 **MR. LINDSEY:** Why do you think that your --
25 your family --

1 **MR. MASHBURN:** Mr. Lindsey --

2 **MR. LINDSEY:** -- denied either signing the

3 petition or wanting to sign the petition?

4 **MS. SHANNON:** They -- they advised that

5 they -- as did they sign the petition. But if I

6 were to call them, they would've said that's

7 fine.

8 **MR. LINDSEY:** To my investigator: Did you

9 ask that second part of the question, regarding

10 the family members willingness to sign the

11 petition if they'd been asked?

12 **MS. KOTH:** I don't believe they asked that.

13 They just asked if they signed the petition.

14 They said no.

15 **MR. LINDSEY:** And Miss Shannon denied that

16 she had signed the petitions for her family

17 members; correct?

18 **MS. KOTH:** Pardon me?

19 **MR. LINDSEY:** Miss Shannon denied that she

20 had -- she had signed the petitions of the other

21 family members; correct?

22 **MS. KOTH:** Yes.

23 **MR. LINDSEY:** See, Miss Shannon, therein

24 lies, quite frankly, a more serious aspect, you

25 know. As we've seen, you know, if people come

1 here and they admit they made a mistake and,
2 quite frankly, in some cases are here with their
3 family members who said that they had consented
4 to them signing it, you know, we're far more
5 willing to dispose of the matter quickly.

6 But in this situation, you've made the role
7 of the investigator all the more harder because
8 you've denied even signing the petition.

9 **MS. SHANNON:** I told him I didn't recall.
10 He came over twice. And I had to fill out a form
11 the second time.

12 **MR. MASHBURN:** Hold the microphone really
13 close to your face.

14 **MS. SHANNON:** He came over twice. And I had
15 to fill out a form the second time, advising that
16 I did not recall.

17 **MR. LINDSEY:** Okay.

18 **MS. KOTH:** Mr. -- or Prentice did -- he did
19 make statement, though, that he would've signed
20 had he been asked to. He would've signed the --
21 for Mr. Davis.

22 **DR. JOHNSTON:** Investigator Koth, were the
23 signatures the same on the petition?

24 **MS. KOTH:** They appear so.

25 **DR. JOHNSTON:** Was the handwriting the same?

1 **MS. KOTH:** Yes. They -- they look the same.
2 Do you want to see them?
3 **DR. JOHNSTON:** Uh-huh.
4 **MS. KOTH:** Do you want to see?
5 **MR. MASHBURN:** Yeah. I'll pass this down.
6 Okay, and Mr. Lindsey still has the floor.
7 Okay. Any questions or comments from the
8 board? At this time, the chair is ready to hear
9 a motion, if there's one to be made.
10 **MS. GHAZAL:** Mr. Chair?
11 **MR. MASHBURN:** Member Ghazal has the floor.
12 **MS. GHAZAL:** I move that we refer this to
13 the Attorney General's Office. I think there is
14 sufficient question of fact remaining here that
15 I'm not satisfied.
16 **MR. MASHBURN:** There's been a motion to
17 refer to the Attorney General. Is there a
18 second?
19 **DR. JOHNSTON:** Second.
20 **MR. MASHBURN:** There's been a motion and a
21 second. Discussion? Hearing no discussion,
22 we're ready to vote. All those in favor would
23 say aye.
24 **THE BOARD MEMBERS:** Aye.
25 **MR. MASHBURN:** All those opposed would say

1 no. Okay, the matter -- the motion passes. The
2 matter will be referred to the Attorney General.
3 And according to my records, that completes this
4 case. Does anybody have anything that says
5 that's wrong? Everybody agree that that case
6 is -- that completes that case?

7 **DR. JOHNSTON:** I agree.

8 **MR. MASHBURN:** Okay. The board agrees that
9 that case is dismi -- not dismissed, that case is
10 completed. So the Monroe County nomination
11 petition, SEB 2020-263 is closed and has been --
12 all aspects of it have been resolved.

13 With regard to housekeeping, I should have
14 announced that case number SEB 2020-292, Richmond
15 County voter registration, SEB 2020-292, Richmond
16 County voter registration, that case has been
17 continued.

18 Okay. If anybody was here for Richmond
19 County case number 2020-292, you are free to go.
20 That case has been continued to the next
21 calendar.

22 **Public Comment**

23 **MR. MASHBURN:** Okay. At this point we will
24 move to the public comment section of the
25 meeting. I'm going to ask that you keep your

1 com -- this has been scheduled for one hour. So
2 I'm going to ask you to keep your comments to two
3 minutes apiece because if you go over your time
4 you will be cutting off somebody who wants to
5 speak who won't get the chance to. So please --

6 **UNIDENTIFIED SPEAKER:** (inaudible)

7 **MR. MASHBURN:** A couple of points to remind
8 everyone about public comment. It's limited to
9 two minutes. It is free to the public. So you
10 will hear public comments that you don't agree
11 with. And so everybody is to treat everyone here
12 with respect and dignity that they would like for
13 themselves. And so there is no cheering or
14 booing or comments made to the public comment.
15 The citizens are free to make their comment
16 without harassment or intimidation or statement
17 otherwise.

18 Also, the board does not answer questions
19 during public comment. This is your time to be
20 heard. The board will not answer questions. So
21 all questions posed to the board are deemed to be
22 rhetorical in nature and the board will not
23 answer.

24 So with that, we'll begin our public comment
25 session for one hour, beginning with George

1 Balbona.

2 The floor is yours.

3 **MR. BALBONA:** (inaudible)

4 **MR. MASHBURN:** Thank you, sir. The floor is
5 yours for two minutes.

6 **MR. BALBONA:** I'll try to be quick. My
7 name --

8 **MR. MASHBURN:** Your microphone is on.

9 **MR. BALBONA:** -- is George Balbona. I'm
10 from Cobb County. I just want to go over a few
11 things.

12 Last year Georgia counties spent nearly
13 \$3 million just to have their Dominion hardware
14 warranty agreements. Fulton County spent over a
15 half a million dollars. DeKalb County spent
16 418,000, right? (indiscernible).

17 Can you hear me? Sorry about that. I
18 should know better.

19 All right. So how much do you think
20 Gwinnett and Cobb paid? Fifty-four and almost
21 forty-two. That's nearly ten times less. Huh.
22 It's because they didn't have their -- they
23 didn't have their test screens on their -- on
24 their account. So that's something they can do.
25 I wonder if Fulton and DeKalb knew anything about

1 that. So 84 counties have complete coverage, 49
2 counties have no coverage, and 26 have partial
3 coverage. These are the crazy amounts for the
4 units and amount to have them on the warranty.

5 Dominion reserves the right to adjust the
6 annual hardware fee within 3 percent of the
7 current fee. They exercised that right. Same
8 coverage is going to cost Georgia \$90,000 more
9 this year. What's funny is if you look at their
10 contract that they sent out to the elections
11 directors, it says that by enrolling in the
12 initial extended warranty and renewing
13 consecutively each year, the customer is
14 guaranteed this price for the balance of the
15 ten-year contract with Georgia with no price
16 increases. I guess they forgot that part.

17 All right. So they jacked up a lot of
18 stuff. Memory card went up 25.7 percent, USB
19 flash drives went up 36.48 percent. Really,
20 yeah, these are the highest hikes and it happens
21 to be on that. If you look at just the four
22 items that are covered by the Dominion hardware
23 warranty agreement, HWA, seventy and a half
24 million dollars worth of equipment. Yeah.

25 But that doesn't cover everything because

1 there's ICC units. Those are the central
2 scanners. They cost \$25,000 a pop. Every county
3 has at least one. Hundred and forty-three
4 counties have one. All right? There's eight
5 counties that have two, three counties that have
6 three, and three counties that have four. That
7 would be Fulton, Cobb, and DeKalb. Clayton has
8 six. I'm not sure about that one.

9 But even crazier, Gwinnett County has nine
10 that they used last year, 2022. But they
11 actually own 23, which boggles my mind. Why?
12 Why do they have 23? There's no rational reason
13 for that. Why don't we ask the SOS, because they
14 approved it?

15 All right. So there was a bill a while back
16 to have Georgia counties adjust the number of
17 BMDs -- that's the test screen -- deployed on
18 election day based on early voting ballots cast.
19 It didn't pass by the way. All right.
20 Nonetheless, only eight counties deployed all
21 hundred percent of their touchscreens in 2022.
22 The amount that the BMDs that weren't deployed in
23 2022 on election day: 11.6 million. Just sitting
24 around.

25 All right. So if you look at the appearance

1 versus reality, you have the total number of BMD
2 units -- and that should be the law -- is one for
3 every 250 registered voters. If you look at
4 that, it looks pretty good. You only have 11
5 counties that are violating O.C.G.A. But if you
6 actually look at the units that were deployed,
7 the facts on election day, that jumps up to a
8 hundred and three counties violating O.C.G.A. and
9 some of them, eight of them --

10 **MR. MASHBURN:** Thank you. Thank you,
11 Mr. Balbona. Thanks.

12 **MR. BALBONA:** Two minutes goes awfully
13 quick.

14 **MR. MASHBURN:** It does, doesn't it?

15 **MR. BALBONA:** And I spent months doing
16 research for you guys.

17 **MR. MASHBURN:** I know. I know. You always
18 do. Thank you for your comments, Mr. Balbona.
19 Thank you for your comments, Mr. Balbona.

20 The next will be David Callahan. The floor
21 is yours for two minutes.

22 **MR. CALLAHAN:** David Callahan from Fulton
23 County. In 2021 I worked in the municipal
24 election and I had a gentleman -- we'll call him
25 Vance -- he came to my window and he wanted to

1 make sure that he was still registered to vote.
2 When I checked, I found out that he was, yes,
3 still registered to vote. He actually had three
4 voter registrations, although one of the three
5 had been canceled. As I looked further, I found
6 out that the other two registrations that he had
7 had been voted in the 2020 presidential election.

8 Now, I'm not accusing him of voting both of
9 those. I'm just saying they were two
10 registrations and both of them were voted. All
11 three of those registrations had the same
12 driver's license number, had the same social
13 security number, had the same date of birth.
14 What I really want to know is how the -- how the
15 Secretary of State's Office can allow duplicate
16 registrations.

17 As I dug further, I found page after page
18 after page of duplicate registrations in Georgia
19 at the same time that there was an election going
20 on. Over 20 thou -- my understanding there were
21 20,000 registrations that were canceled between
22 the 2020 election and the 2021 municipal
23 election.

24 So I filed a FOIA request, asking how many
25 of those ineligible registrations were voted in

1 the 2020 election. The response I got was that
2 we do not keep that data. I find it very
3 disturbing that our voter rolls are so dirty. I
4 find it very disturbing that people can have
5 multiple registrations and vote on multiple
6 registrations or have them voted on multiple
7 registrations.

8 I also -- when I knocked on doors, I went to
9 the home of a Jehovah's Witness pastor. I don't
10 know if you know but the Jehovah's witnesses do
11 not vote by their religion. This pastor
12 explained to me why they don't vote. But then I
13 found -- I knew he was registered to vote because
14 that's why I was at his door. And then I found
15 that somebody had voted his registration.

16 **MR. MASHBURN:** Thank you, Mr. Callahan.
17 Thank you for your comments.

18 The next commenter will be Shawn Cross, it
19 looks like.

20 **MS. CROSS:** I am Shawn Cross.

21 **MR. MASHBURN:** The floor is yours --

22 **MS. CROSS:** On October 11th --

23 **MR. MASHBURN:** -- for two minutes.

24 **MS. CROSS:** I'm sorry?

25 **MR. MASHBURN:** The floor is yours for two

1 minutes.

2 **MS. CROSS:** Thank you. On October 11, 2022,
3 Kevin Moncla and David Cross requested an
4 emergency review by you of two issues found in 65
5 of the 67 Georgia counties that they obtained
6 records from. The voting machine QR code
7 signature mismatch and ballot format or ID
8 unrecognizable error pair is a triggering event
9 for an error known as the Williamson incident.
10 The Election Assistance Commission validated this
11 error in Dominion machines.

12 A second error was identified when a voter
13 attempts to scan their ballot. The scanner
14 returned it to the voter but then accepts it.
15 Their investigation revealed the same
16 rejected-then-accepted pattern occurs in concert
17 with several other errors and in an alarming
18 volume affecting approximately 20 percent of all
19 ballots cast across the state of Georgia.

20 Please help the citizens of Georgia
21 understand why we are voting on machines that
22 have errors validated by election officials and
23 citizens. Fair, legal, and orderly elections are
24 the board's watchwords for your service to the
25 people of Georgia. You are committed to the

1 highest standards of integrity in your service to
2 our state and as citizens and all matters related
3 to the election process. These are the values to
4 which you commit. It is your responsibility as a
5 state election board to investigate and correct
6 this.

7 Why are you and the Secretary of State
8 continuing to ignore this nefarious condition?
9 This is a violation of Georgia code, a violation
10 of your oath, and, in addition, to you failing
11 the citizens of Georgia. Thank you.

12 **MR. MASHBURN:** Thank you for your comments.

13 Janelle Clodfelter. Hope I pronounced it
14 correctly.

15 **MS. CLODFELTER:** Yeah. Janelle Clodfelter
16 unplugged.

17 **MR. MASHBURN:** The floor is yours for two
18 minutes, plugged or unplugged.

19 **MS. KLODFELTER:** All of this information,
20 research, SEB meetings, legislative committee
21 meetings, press conferences, lawsuits, et cetera,
22 I've been paying attention and I can no longer
23 ignore. At a previous SEB meeting, John
24 Paulus(ph) testified to verify tabulators the
25 best thing to do is count the ballots. They are

1 what is not hackable. What is hackable? Am I
2 supposed to ignore that comment? He testified
3 here.

4 Expert Alex Halderman reports that machines
5 must go because people like me can hack them.
6 And he stated that the machines we have were not
7 designed for security and can't be retrofitted.
8 Should I ignore that?

9 Gabe Sterling testified before a legislative
10 committee: Machines do what we tell them to do.
11 Well, I agree with that but the machine's
12 software is proprietary. How do you audit that?
13 Mr. Sterling testified that SOS supports more
14 audits. If that is the case, why has the SOS
15 done everything over the past three years to
16 prevent the audit of 150 pristine Fulton County
17 ballots? And why has he written magical legalese
18 letters to county boards preventing attempts to
19 audit? Should I ignore that?

20 Legislators in committee state our
21 vulnerabilities have been announced to the world.
22 Should I ignore that? What has happened with the
23 mini poll pad issue has set us back a year. And
24 we can't update software until we address the
25 vulnerabilities that have been announced to the

1 world.

2 One of the legislators stated he would
3 cancel the contract if it's for his own private
4 company. Why can't we cancel it for we the
5 people?

6 **MR. MASHBURN:** Thank you, Ms. Clodfelter.

7 The next speaker is Tim Waters. Tim Waters.
8 The floor is your, Tim Waters. Two minutes.

9 **MR. WATERS:** Thank you, Mr. Chairman.

10 **MR. MASHBURN:** You're welcome.

11 **MR. WATERS:** So with regards to the delay in
12 SEB 2023-025, justice delayed is justice denied.
13 The -- and I want to speak of the errors, the
14 lie, and the coverup.

15 The errors, at this point it is indisputable
16 that errors exist in the RLA hand-audit report
17 for Fulton County, posted on the Secretary of
18 State's website. Thirty-six errors were
19 identified in this report by the Rossi-James
20 team. The totality of these errors netted Biden
21 four thousand one hundred -- 4,081 false absentee
22 ballot votes out of 147,000 absentee ballot votes
23 counted. That's a 2.7 percent error rate. These
24 errors were validated by the governor's team, by
25 Governor Kemp's team.

1 In the governor's letter, letter dated
2 11/17/21, two important statements are made.
3 Thirty-six errors noted by Mr. Rossi are factual
4 in nature and data that exists in public view on
5 the Secretary of State's website on the RLA
6 report does not inspire confidence. It is sloppy
7 and inconsistent.

8 Post Governor Kemp's letter, with their
9 backs to the wall, assistant attorney general
10 McGowan's SOS investigator Mr. Zagorin, SOS
11 attorney Ryan Germany, the SEB, Fulton County,
12 and even Mr. Raffensperger himself had to admit
13 the Fulton County hand audit was erred.

14 During the radio interview, dated on
15 2/22/22, Mr. Integrity states: When we did
16 100 percent hand recount, we found three counties
17 that messed up. You know, fairly significant.

18 Number 2 was Fulton County. All of a
19 sudden, they were off by several thousand
20 ballots. Well, it's because you scanned some of
21 these ballots twice. Does integrity count?

22 **MR. MASHBURN:** Thank you, Mr. Waters.

23 **MR. WATERS:** Thank you.

24 **MR. MASHBURN:** The next speaker is Lisa
25 Neisler. Either Neisler or Neisler. Lisa? Lisa

1 Neisler or Neisler?

2 **MS. NEISLER:** It's Neisler.

3 **MR. MASHBURN:** Neisler. Lisa Neisler. Two
4 minutes. The floor is yours.

5 **MS. NEISLER:** All right, thanks. Well, I'm
6 going to speak about the lie. And I'm going to
7 start by talking about the e-mail from Gabriel
8 Sterling's office from the Secretary of State
9 Office and where he states: We know with a
10 hundred percent certainty that the ballots --
11 100 percent certainty that the ballots were not
12 tallied multiple times because the hand tally
13 shows that.

14 Flash forward to the first quarter of 2022
15 when Raffensperger admits Fulton double counted
16 thousands of ballots. And in his radio
17 interview, with his back to the wall, after
18 Governor Kemp's stunning rebuke of the Secretary
19 of State's so-called accurate hand audit, in that
20 statement he admits to significant ballot
21 counting errors in Fulton County.

22 And, you know, I'm just going to quote
23 again. What he said was: When we did the 100
24 percent hand recount, we found three counties
25 that messed up. You know, fairly significantly.

1 Number 2 was Fulton County. All of a sudden,
2 they were off by several thousand ballots. Well,
3 it's because you scanned some of these ballots
4 twice. That's how that got messed up.

5 Fulton County, though, continues to mess up.
6 The RLA hand audit for Fulton County, posted on
7 the Secretary of State website, cannot be both
8 100 percent certain and off by thousands because
9 they were scanned twice. You can't have it both
10 ways. Thank you.

11 **MR. MASHBURN:** Next speaker is -- thank you
12 for your comments.

13 Next speaker is Amanda Prettyman.

14 **MS. PRETTYMAN:** Hi.

15 **MR. MASHBURN:** The floor is yours for two
16 minutes.

17 **MS. PRETTYMAN:** Thank you. All right, well,
18 let's talk about the coverup. The errors and the
19 lie are back. But what is worse is the coverup,
20 an effort by the Secretary of State's Office, the
21 Attorney General's Office, and this state
22 election board to work to exonerate the Secretary
23 of State of any responsibility for his erred
24 recounts.

25 On December 4, 2021, there was -- there's an

1 unsolicited phone call from Ms. McGowan,
2 assistant attorney general to complainant Jack
3 James. James transcribed notes from the call
4 which state, quote: The purpose of her call was
5 apparently to convince me that the Secretary of
6 State has no responsibility for his errors
7 exposed in Fulton.

8 On December 16, 2021, there is a Secretary
9 of State's investigator meeting in which
10 Investigator Zagorin says to complainant Rossi:
11 What I think you are saying, because it's on our
12 website it's our responsibility.

13 In the March 16, 2022, state election board
14 hearing on SEB 2021-181, whenever complainant
15 Rossi brings up the issues with the Secretary of
16 State, he's shut down by acting Chairman Mashburn
17 who states: All right, Mr. Rossi, I'm going to
18 have to -- I'm going to have to caution you
19 again. Fulton County is the respondent. This is
20 not a hearing about the Secretary of State.

21 There is one more shutdown that took place
22 on July of 2023 by none other than Ms. McGowan,
23 who moved over to become the Secretary of State's
24 attorney. This shutdown involves an
25 investigation case against the Secretary of State

1 for election code violations, SEBBI 2023-0001.
2 This case will be discussed today and is arguably
3 the most important case before the board.

4 I hope that you will hold the Secretary of
5 State accountable, for no one is above the law in
6 a democracy and in this republic. And that
7 includes the Secretary of State. And if you
8 don't hold him accountable, who will? Is he
9 accountable to no one or is he accountable to
10 someone? Thank you.

11 **MR. MASHBURN:** Thank you. Thank you for
12 your comments.

13 Next speaker is Joe Rossi.

14 **MR. ROSSI:** Given me a second to get
15 situated.

16 **MR. MASHBURN:** Okay, we won't start you
17 until you get situated, Mr. Rossi. Let me know
18 when you're ready.

19 **MR. ROSSI:** I'm ready.

20 **MR. MASHBURN:** Ready? All right. Two
21 minutes. The floor is yours.

22 **MR. ROSSI:** Good morning, Board. Good
23 morning, fellow Georgia patriots. SEBBI
24 2023-001, perhaps the most serious case that I
25 can think of before the board. And to verify

1 that, I'm happy to say that Mr. Mashburn agrees
2 this is fairly serious also. And thank you for
3 that, Mr. Mashburn. Thank you for this letter.

4 To remind you, this case, as mentioned
5 earlier, is one of a kind. It is whether the
6 board has the authority to investigate the
7 Secretary of State for election code violations.
8 If the board doesn't do it, who can?

9 But again the seriousness of it.
10 Mr. Mashburn sends me a certified letter in
11 October of 2023. He says: There was no deadline
12 for when the board would decide the matter.

13 That's the only thing I can disagree with
14 you on, Mr. Mashburn. Sometimes deadlines are
15 important.

16 But he does say the matter would be
17 diligently, thoroughly, and responsibly
18 considered. Then he goes on to say: The matter
19 is one that is unprecedented in Georgia history.
20 So let me move on and remind the board y'all have
21 already opened up a case on this. As a matter of
22 fact -- y'all know Chairman Duffey, right? He
23 opened up a case in July of 2023 only to be shut
24 down by none other than Ms. McGowan,
25 Raffensperger's attorney.

1 How do I know that? I got this e-mail from
2 Chairman Duffey, August 6, 6:23 a.m., on a Sunday
3 morning. Must have been troubled by it to do it
4 that early, right? I'll tell you what's in the
5 body of the e-mail. But more importantly, this
6 is Ms. McGowan's attachment. He didn't have to
7 send me the attachment between her and him but he
8 did, obviously troubled by it.

9 In the attachment, Ms. McGowan says: Judge
10 Duffey, I understand that you have asked Sara to
11 open up a new case on Mr. Rossi's complaint
12 against the Secretary of State's Office regarding
13 the posting of the county level RLA results for
14 the 2020 election. I have instructed our
15 investigations division that this office will not
16 be opening up a case on this complaint for
17 several reasons.

18 And finally at the end -- I don't know if
19 this is a threat or instruction, but I don't
20 think Judge Duffey took it too well. It says: I
21 trust with this information that the board will
22 inform Mr. Rossi that no case will be opened on
23 this matter.

24 And finally, Mr. Duffey, he did not accept
25 that shutdown. Thank him for that. And now it's

1 time for the board to move on. He says in an
2 e-mail to me: We are evaluating our options on
3 how we can proceed in this matter.

4 So I would ask the board to build public
5 confidence back into our elections.

6 Specifically the Secretary of State's
7 Office, I want to remind you what Governor Kemp
8 said: The data that's posted on the RL -- on the
9 Secretary of State's website for the RLA report
10 is sloppy, it's inconsistent, and it does not
11 build public confidence.

12 The board has an opportunity to put some
13 public confidence back into our election office
14 --

15 **MR. MASHBURN:** Thank you.

16 **MR. ROSSI:** -- by voting yes on BI2022.
17 Thank you very much.

18 **MR. MASHBURN:** Thank you, Mr. Rossi.

19 The next speaker is David Cross. David
20 Cross. If you'll let me know when you're ready.

21 **MR. CROSS:** All set.

22 **MR. MASHBURN:** All set.

23 **MR. CROSS:** Mr. Rossi --

24 **MR. MASHBURN:** The floor is yours.

25 **MR. CROSS:** -- appreciate your work and I

1 appreciate you continuing my work and the work of
2 other folks here.

3 For today's SEB meeting, we're supposed to
4 hear the details of SEB 2023-025 regarding the
5 errors in the second machine count which revealed
6 17,852 missing ballot images and 3,125 duplicate
7 counted ballots in Fulton County. The case was
8 categorized as no -- as violations found to be
9 referred to the Attorney General's Office for
10 further action.

11 On Friday afternoon, last week, at around
12 4:30, Mr. Rossi was notified by e-mail by the
13 SEB's paralegal. It said: Good morning -- or
14 good afternoon, please accept this e-mail as
15 notice that case SEB 2023-025 has been continued
16 from the agenda and will not be heard on the
17 December 19th SEB meeting.

18 So what happened? So per the SEB paralegal,
19 board members are provided a case review package
20 approximately a week in advance of these
21 meetings. Somehow between the receipt of the
22 review package and this past Friday, the item was
23 pulled from the agenda. Could it be that the
24 review package contained an inadequate report on
25 the case by the investigative team? Was it going

1 to be another attempt by the Secretary of State's
2 Office to move this case along and push it under
3 the rug and get it closed out with minimal damage
4 to the Secretary of State's narrative that: We
5 did count three times and everything was
6 accurate.

7 The bottom line is this a serious case and
8 the public deserves answers as to why this case
9 was pulled. And what are the next action steps
10 regarding 2023-025? Investigators took ten
11 months to deliver an incomplete report that one
12 can only surmise the case was not
13 discussion-ready or ready for investigators to
14 discuss or have the expertise to be able to
15 discuss it.

16 We the people demand answers. We want to
17 see the investigation reports because we have no
18 confidence in the investigation process.

19 **MR. MASHBURN:** Next commenter is Bob
20 Coover? Coover? Did I pronounce that
21 correctly?

22 **MR. COOVERT:** That's correct. Bob Coover,
23 Blue Ridge, Georgia.

24 **MR. MASHBURN:** Coover. Welcome. Two
25 minutes. The floor is yours.

1 **MR. COOVERT:** Thank you, sir. Most people
2 in here are very familiar with the Ligon report
3 that came out in December, just following the
4 election of 2020, especially my friend Sam back
5 there. What he said in that was there is ample
6 evidence that this cannot be certified.

7 Now, why is that important? Because Judge
8 Ligon -- Senator Ligon was a judge for 16 years
9 in Brunswick, Georgia. If anybody knows what
10 evidence looks like, it's Judge Ligon. So
11 shortly after that, on December 17th -- I'm
12 sorry, December 22nd, Secretary Raffensperger had
13 a press release that said: I bring in together
14 all of government to go after 250 credible cases
15 of fraud in the state of Georgia. 250 credible
16 cases.

17 Two weeks later, he went to the United
18 States Congress. He wrote a letter to vice
19 president Pence, all the members of Congress and
20 said: Nothing is wrong in Georgia. There's no
21 fraud.

22 In three weeks, we solved all these 250, at
23 that time, known issues of fraud. So you tell me
24 where the fraud is. Many of us, including some
25 attorneys, look at the letter, a ten-page letter

1 to the U.S. Congress. It had 42 false statements
2 in it. Our Secretary of State told 42 false
3 statements to the United States Congress and the
4 vice president.

5 So within that document was the Pro V&V
6 audit. He told us, the citizens; he told the
7 SEB, he's told many courts that this Pro V&V
8 audit took place. I worked with Governor Kemp.
9 I worked with Evan Meyers, one of his attorneys.
10 I worked with the Inspector General Scott McAfee.
11 And they tried to convince me that the Secretary
12 of State and Pro V&V told them that this audit
13 took place.

14 Well, I asked them: How many counties told
15 you the audit took place? Zero. We did open
16 records requests to the counties and it came back
17 where zero audits were done by Pro V&V.

18 So now, we're making decisions, our
19 legislators are making decisions on an audit that
20 never took place.

21 **MR. MASHBURN:** Thank you for your comments.
22 Thank you.

23 Merry Belle Hodge. Merry Belle Hodge.

24 Welcome. The floor is yours for two
25 minutes.

1 **MS. HODGE:** I'm ready.

2 **MR. MASHBURN:** All right.

3 **MS. HODGE:** So when a person convicted of a
4 felony loses their right to vote, they can
5 lawfully restore that right by completing their
6 sentence, their parole, pay their fines, and
7 deliver paperwork in person to the elections
8 office. I'm certain the board's aware of this.

9 We are discovering ongoing manipulation of
10 voter IDs of felons in Georgia. In 2022, voter
11 IDs of felons were used to cast votes and then
12 immediately after the election were canceled and
13 removed from the rolls. Some of them were
14 canceled November 4, 2020, less than 24 hours
15 after the election.

16 This is clearly identity theft that could
17 cause serious ramifications for felons who desire
18 to restore their right and they are unaware this
19 is going on. Let me tell you about Mr. Hickman.

20 Mr. Hickman appeared on the Gwinnett voter
21 rolls in April 2023 with a registration date of
22 April 28, 2023, and an address of 3900 Satellite
23 Boulevard, Duluth, Georgia. This is a
24 nonresidential address.

25 I challenged this voter in Gwinnett County,

1 due to the nonexistent res -- nonresidential
2 address. On August 16, 2023, Mr. Manifold,
3 election supervisor responded via letter stating,
4 and I quote: The challenges will not be
5 scheduled for hearing because both voters are no
6 longer Gwinnett County registered voters.
7 Mr. Hickman registered in Muscogee County on
8 April 28, 2023, end quote.

9 A quick review of the data is remarkable.
10 April 28, 2023, registration for Mr. Hickman,
11 Muscogee County, 3900 Chattooga Road. May
12 through August, voter roll registration address:
13 3900 Satellite Boulevard, Duluth, Gwinnett.
14 Mr. Hickman was and is currently incarcerated at
15 3900 Chattooga Road, Columbus.

16 Who is manipulating these voter IDs? These
17 felons do not know it. Has someone made
18 Mr. Hickman aware that he has been registered in
19 several counties more than once while he's still
20 incarcerated? How could the Department of Driver
21 Services send a motor vehicle -- motor voter
22 application to Gwinnett County with an inaccurate
23 address from an individual who's sitting in jail
24 in another county?

25 **MR. MASHBURN:** Thank you, Ms. Hodge. Thank

1 you.

2 **MS. HODGE:** Thank you. Unjust rights is an
3 abomination to the Lord.

4 **MR. MASHBURN:** Our next speaker is Ben
5 Eskew. Ben Eskew. Ben Eskew. Welcome. The
6 floor is yours for two minutes.

7 **MR. ESKEW:** Okay. Hello. My name is Ben
8 Eskew. I want to share some election trends from
9 the Republican areas of the Atlanta suburbs where
10 trends may be a bit off the line.

11 The biggest off trend is in North Fulton
12 County which has been a Republican stronghold for
13 a very long time. And so the safest and most
14 secure election, when you define the five cities
15 north of the Chattahoochee River, Joe Biden won
16 that area by a 51-to-47 margin.

17 According to my estimates, that is the first
18 time a Democrat won that area since Harry S.
19 Truman did in 1948. It even voted for Gerald
20 Ford in 1976, according to my estimates. I do
21 not have precinct data before 1984. I do not
22 know if I can get it by ORR in Fulton County for
23 that data.

24 But anyways it's just shocking. According
25 to my estimates these are just -- I get this from

1 other counties' data, like surrounding data,
2 because I get county data back to the nineteen --
3 early 1900s. He became the first Democrat since
4 Carter to win Roswell, Stevenson to win Johns
5 Creek, and FDR to win Alpharetta. I'm not sure,
6 based on this data if I had the precinct file
7 because I have it back to 1984 because I got it
8 via a online source.

9 And we're going to go to some other
10 counties, mainly Cobb County and Gwinnett County,
11 which again has historically been Republican
12 counties until Hilary Clinton won them in
13 major -- in a major upset in 2016. They last
14 voted Democrat for Jimmy Carter in 1976 when he
15 swept every county in the state.

16 In Gwinnett County -- I'm a Gwinnett County
17 resident by the way -- what seems suspicious is
18 every office flipped from Republican to Democrat
19 in the 2020 election cycle, one election cycle.
20 It usually takes counties a few election cycles
21 to flip from one party to another. Republicans
22 won most of them unopposed in 2016. I understand
23 that Gwinnett's been changing, but it makes no
24 sense.

25 Get ready for this. Donald Trump received

1 more votes than George W. Bush did in Gwinnett
2 County despite him, Bush, winning the county by a
3 2-to-1 margin and Trump losing it by 18
4 percentage points.

5 **MR. MASHBURN:** Thank you, Mr. Eskew. Thank
6 you.

7 **MR. ESKEW:** Oh, my time's up. Thank you
8 very much.

9 **MR. MASHBURN:** Thank you.

10 The next speaker is Jeff Fulgham. Jeff
11 Fulgham. I hope I'm pronouncing that correctly.

12 **MR. FULGHAM:** Yes, sir, you did. Thank you.

13 **MR. MASHBURN:** You have two minutes. The
14 floor is yours.

15 **MR. FULGHAM:** Thank you.

16 My name is Jeff Fulgham. I live in Fargo,
17 Georgia. I'm retired military and I served 20
18 years in the military and I have 14 years of
19 experience as a research historian.

20 In December of 2021, I file a fraud report
21 with CISA, the cybersecurity agency of DHS,
22 concerning Fulton County 2020. I then briefed
23 the FBI on this report on three occasions. What
24 I told the FBI was that I believed that the
25 duplicate batches that Mr. Rossi proved were

1 actually entered intentionally. They had been
2 altered and then duplicated. And I did six
3 months of research on this.

4 Following my discussion -- these were 6,000
5 gross fake votes added to the Fulton hand count.
6 Following my discussion with the FBI, two months
7 later the Georgia Secretary of State made the
8 following admission. He said that the Fulton
9 hand count was actually off by several thousand
10 because they count -- they scanned ballots twice.

11 Immediately after that, though, at the March
12 hearing here at the State Election Board for the
13 Mr. Rossi hearing, the investigators concealed
14 that evidence from the board and the people. So
15 I again filed my second fraud report. This one
16 with the AG who also buried this evidence.

17 Now, I filed a complaint with the Office of
18 the Inspector General. And I have requested that
19 they investigate the Georgia Secretary of State
20 as well as the A.G. for mishandling and
21 concealing evidence from 2020.

22 And if the media would like to look into my
23 complaint with the I.G., the complaint number is
24 71933C143F. And at my last name is Fulgham,
25 F-u-l-g-h-a-m. Thank you.

1 **MR. MASHBURN:** Thank you, Mr. Fulgham.

2 Next speaker is Helen Strahl. Helen Strahl.
3 Did I pronounce that correctly?

4 **MS. STRAHL:** Yes, you did. That's correct.
5 Thanks. Good morning, everybody.

6 Several data analysts have studied the
7 Secretary of State 2020 voter rolls, the absentee
8 ballot files, and the voter history files. This
9 analysis reveals hundreds of thousands of
10 unlawful ballots.

11 During 2019 and 2020 the law said you could
12 not request an absentee ballot earlier than a
13 hundred and eighty days prior to an election.
14 That was May 6th in 2020. There is a
15 well-established process for processing early
16 ballots but it was dramatically changed in 2020.
17 The Secretary of State told all hundred and
18 fifty-nine counties that he was going to take
19 over the ballot request process until some time
20 in mid September because he was going to do a
21 mass mailing. And he did September 18th.

22 At this point you need to realize that no
23 county official across the entire state was
24 involved in the early ballot process, either with
25 the issuance, the acceptance until sometime in

1 mid-September. This is key that county officials
2 knew nothing about this.

3 Starting in January 2019 -- yes,
4 January 2019 -- the ballot requests were coming
5 in for the November election in large batches
6 with an almost hundred percent acceptance rate.
7 This is a year and a half before the election.
8 Says no human ever while wrapping Christmas
9 presents in 2019: I think I'll request a ballot
10 for next year's election. That didn't happen.
11 Deals were made.

12 March 2020, COVID hit, drop boxes were
13 created, and absentee ballot rules were relaxed
14 without the state legislators' authorization.
15 The number of unlawful early ballots was over
16 250,000 and they were turned into votes.

17 **MR. MASHBURN:** Thank you, Ms. Strahl. Thank
18 you.

19 **MS. STRAHL:** How do you hide those --

20 **MR. MASHBURN:** Thank you.

21 **MS. STRAHL:** Thank you.

22 **MR. MASHBURN:** Lisa Rutherford. Lisa
23 Rutherford. Lisa Rutherford.

24 **MS. RUTHERFORD:** Thank you. I have
25 personally been before Gwinnett B.R.E. many times

1 over the past few years. They know me well.
2 You've already heard plenty of disturbing
3 information on election issues.

4 In August of 2020 a gentleman in Gwinnett
5 sold his home -- and we know this from the deed
6 of sale in canvassing -- and he moved and
7 purchased a home in North Carolina. Yet he
8 submitted an absentee mail ballot request to the
9 NCOA address and voted illegally in the 2020 and
10 2021 elections, thereby voiding a legal vote.

11 We challenged this voter along with many
12 others in 2022 with sworn affidavits and
13 documents -- documentation, but they were
14 dismissed without review by our B.R.E.
15 October of 2022 we alerted the board and staff as
16 voters and others were again requesting absentee
17 mail ballots to the same out-of-state addresses
18 they had been made aware of earlier.

19 No action was taken to determine if these
20 requests are legitimate. It's a literal
21 free-for-all with no checks and balances on your
22 end. The absentee mail ballot was easily mailed
23 to him and he again voted illegally in this past
24 election attesting under penalty of law that he
25 still resides at the home he sold years before.

1 This is not an isolated incident and we
2 bring these before the board often. I challenged
3 this voter again in September with over a dozen
4 irrefutable data points of proof: affidavits and
5 canvassing deeds of home sale and purchase, SOS
6 corporate division information, your own SOS data
7 from his voter history, a professional location
8 report widely recognized in the court system and
9 much, much more.

10 This information would rival anything you
11 would receive from your investigators here.
12 However, our board voted down party lines and the
13 result was no action taken. So he is still
14 active on the roll today. I believe this
15 breached their oaths of office.

16 I was looking to see if any amount of
17 evidence would yield a favorable outcome and two
18 board members failed miserably. In the next
19 vote, the motion to send the challenges to you
20 for further criminal investigation passed. So
21 they would not make the right decision but they
22 want you to.

23 Will you do the right thing now since they
24 wouldn't? Many cases that go before you end up
25 in a black hole. I'll be watching to see if he

1 and others vote illegally again this year. I
2 will now hold you accountable as well. Remember
3 your oaths. The evidence demands a verdict.

4 **MR. MASHBURN:** Thank you, Ms. Rutherford.

5 The next voter is Sam -- Sam Cardine or
6 Carnine. Carnine. It looks like a "d" is in
7 there. I'm sorry. Cairo, Georgia.

8 **MR. CARNINE:** Thank you, Board.

9 **MR. MASHBURN:** The floor -- the floor is
10 Cairo, Georgia's for two minutes.

11 **MR. CARNINE:** We -- down in Cairo, Grady
12 County, we grow cotton, peanuts, and pine trees.
13 You can make lots of paper ballots out of the
14 pine trees in Grady County. Thank you, Board,
15 for hearing me today. Thank you, all, for
16 showing up.

17 Members of the State Election Board and
18 other attendees, upon reviewing the official
19 duties of the State Election Board, we noticed
20 your responsibilities include investigations, the
21 administration of elections and frauds and to
22 report findings to the Attorney General or
23 responsible district attorneys, making
24 recommendations to the General Assembly regarding
25 elections, and developing rules and regulations

1 about what constitutes a vote that will be
2 counted.

3 You have seen many such complaints since the
4 2020 general election. Yet the public and the
5 state General Assembly has seen very few results
6 from investigations or recommendations. On
7 December 2020, Secretary of State Raffensperger
8 ordered the supervisor of elections of Fulton
9 County to reconcile their totals because based on
10 the count of physical ballots, Fulton County was
11 17,000-plus votes below the total reported on
12 election night. This was not made public.

13 What is clearly proven from the complaint is
14 the recount did not confirm the report totals
15 from election night. Votes were simply added to
16 batches or discovered to make up the difference.
17 Sometimes the same ballots appear to have been
18 added in two places. With the additional 20,700
19 votes counted from unidentified tabulators that
20 had already been added to the initial count,
21 there is no paper documentation of ballots for
22 nearly 42,000 votes.

23 In all due respect, your decisions to act or
24 not act can and are contributing to the
25 destruction of the confidence of we the voters

1 and the destruction of one of our most sacred
2 rights, the right of a free and fair election.

3 **MR. MASHBURN:** Thank you, Mr. Carnine.

4 **MR. CARNINE:** This board has had this
5 evidence for over 16 months. Reflect on the
6 destruction of our rights and confidence in our
7 friends since the 2020 general election conducted
8 on an independent and -- since the general
9 election and conduct -- please conduct -- an
10 independent investigation of the Secretary of
11 State of Georgia.

12 If the president of the United States is not
13 beyond investigation, the Secretary of State of
14 the state of Georgia is not either. Thank you.

15 **MR. MASHBURN:** Linda Mink. Linda Mink.
16 Linda Mink.

17 I see one jazz hands. Thank you. One
18 faithful -- one faithful jazz-hander. I
19 appreciate that.

20 Linda Mink. Linda Mink. Linda Mink.

21 **MS. MINK:** First of all, Mr. Mashburn, I
22 would like to sincerely thank you for a much
23 improved prayer. Thank you. God bless you.

24 By the way, is there a clock that shows us
25 where our two minutes are up? You -- you -- I'm

1 going to trust you to do it.

2 **MR. MASHBURN:** Mr. Cross was right dead on
3 the money for two minutes.

4 **MS. MINK:** Okay. All right. Here we go.
5 (Cross-talking)

6 **MR. MASHBURN:** He's a good -- he's a good
7 solid timer. He had it right on the money.

8 **MS. MINK:** I'll crank it up.

9 On November 17, 2021, Governor Kemp sent a
10 letter to each state election board member
11 concerning the Joe Rossi findings. The end of
12 the letters stating: It is a responsibility of
13 the State Board of Elections to safeguard the
14 confidence I and all of my fellow Georgians have
15 in our elections.

16 This is one issue where I believe this board
17 must act swiftly and I urge you to do so in this
18 case. Members of this board have had vitally
19 important issue information for 761 days. That's
20 over two years.

21 And now, according to the agenda, you're
22 calling for another continuation. This has got
23 to stop. You are all responsible professionals
24 and we are responsible voters in the state of
25 Georgia. We the citizens of Georgia and I'm sure

1 Governor Kemp want the answers from the
2 governor's original three requests: Direct
3 investigators to review Mr. Rossi's findings,
4 find as many as my office has and order
5 corrective actions as needed to address any
6 verified issues and errors. Where are the --
7 where's the corrective action? It hasn't
8 occurred.

9 He also asked whether any changes should be
10 made to the risk limiting audit report. If so
11 the board should determine whether such changes
12 adversely impact the integrity of the RLA report
13 as originally reported. What changes have you
14 made to the RLA? We haven't seen any.

15 The third direction that he asked of you, by
16 the governor, review the audit methodology using
17 counties across Georgia and create a prescriptive
18 and uniform set of rules that ensure one process
19 is followed by all counties that result in the
20 clear presentation of data. Is there a draft
21 report? Have you -- have you done it?

22 Our will is that you reflect on your
23 professional careers as responsible
24 professionals. How is this lack of action
25 impacting the citizens of Georgia? Is this

1 incompetence a conspiracy or a coverup?

2 In closing, let me remind you that the
3 penalty for doing nothing is often greater than
4 the penalty for doing something. And a
5 continuation is doing nothing for the past 761
6 days. How long will you repeatedly do nothing?
7 And I close.

8 **MR. MASHBURN:** Thank you for your comments.
9 Kim Brooks. Kim Brooks. Kim Brooks.

10 **MS. BROOKS:** My name is Kim Brooks, DeKalb
11 County. Have you had enough about hearing about
12 2020 crimes yet? You're going to hear some more.

13 I work with a team of data analysts across
14 the state and we've been analyzing Georgia
15 Secretary of State files. We're doing things
16 with those files he never thought we would do.
17 We're finding fraud in every corner that we look.
18 You've heard about several things today. I will
19 add to that.

20 Absentee ballots mailed to purposeful bad
21 addresses so there's return to sender. I don't
22 believe we have New York City in Georgia and it
23 was mailed to New York City, Georgia and
24 Louisville, Georgia and San Diego, Georgia and
25 Venice, Georgia. And you get the idea.

1 We have manipulation of inactive voters that
2 were turned active, voted, and put back inactive,
3 which is impossible per our laws. If you vote,
4 you get turned inactive. And my mic is off.

5 **MR. MASHBURN:** No, it's turned on.

6 **MS. BROOKS:** We also have infrequent active
7 voters that were activated voted. That looked
8 proper until you looked two more voter rolls and
9 they put back the date last voted from two months
10 prior to the election. It is a cover-up of a
11 crime.

12 We have double voting via duplicate IDs.
13 And, yes, the gentleman that talked about all of
14 the cancellations in October, November, December,
15 and January of 2020 to cover up the crime is
16 mind-boggling.

17 We are getting smarter. We're not going
18 away. And there's more nerds in the group and
19 the nerds will save Georgia with the fraud we are
20 finding.

21 We expect this board to investigate the
22 Secretary of State. But I'm going to leave you
23 with the most important thing that we are
24 uncovering in 2023 and that is synthetic identity
25 theft via the Department of Driver Services. We

1 have copies of the motor voter application that
2 is fraudulent with fraudulent signatures, where
3 they're stealing people's social, their birth
4 date. It's inaccurate signatures. And it is
5 being -- it is a fraudulent government document
6 sent to the election official to unknowingly
7 commit fraud --

8 **MR. MASHBURN:** (indiscernible)

9 **MS. BROOKS:** -- on the voter rolls in the
10 United States of America.

11 **MR. MASHBURN:** Thank you --

12 **MS. BROOKS:** -- and that feed is coming via
13 GRVIS.

14 **MR. MASHBURN:** Thank you --

15 **MS. BROOKS:** God bless America.

16 **MR. MASHBURN:** Thank you, Ms. Brooks.

17 Bill Henders. Bill Henders. Bill Henders.
18 Hey, Mr. Henders. Welcome. Let me know when
19 you're ready.

20 **MR. HENDERS:** Thank you, Mr. Chairman.

21 **MR. MASHBURN:** The floor is yours. Two
22 minutes.

23 **MR. HENDERS:** Okay. Our law says that in
24 odd numbered years the Secretary of State is
25 supposed to do list maintenance on the voter

1 roll. One law addresses active voters being
2 moved to inactive status and the other law
3 addresses inactive voters being purged from the
4 voter rolls. Per the Secretary of State's own
5 files, he is far from following that law.

6 Active voters should be made inactive if
7 there is no contact in the last five years.
8 Currently on the voter rolls, there are over
9 340,000 registrants that are active -- inactive
10 status with no contact in over five years. And
11 what's even worse, one registrant literally has
12 had no contact since 1972. 1972. Inactive
13 voters should be purged if there is no contact
14 after two election cycles.

15 Currently on the voter rolls, there are over
16 280,000 registrants that should've been purged
17 this year but weren't. We have one inactive
18 registrant with no contact since 2000. Why isn't
19 the Secretary of State doing his job and
20 following the law? But it gets worse.

21 Data analysts, which I am one of them, have
22 found that in 2020 registrants that actually were
23 purged in 2019 were suddenly brought back on the
24 voter roll in October and November, get credit
25 for voting, and then disappear again. This

1 appears to be more election crimes and coverup in
2 2020. The 2020 election should never have been
3 certified.

4 But I am -- I am concerned about the next
5 election. If we don't -- if we don't fix these
6 voter rolls and clean them up, we're going to
7 have this same controversy, same legal and
8 political trauma over the next four years. We
9 need to get it done.

10 And the people demand an investigation into
11 the Secretary of State's Office. Thank you,
12 Mr. Chairman.

13 **MR. MASHBURN:** Thank you, Mr. Henders.

14 Next speaker is Nancy Curd. Nancy Curd.
15 Nancy Curd. Welcome.

16 **MS. CURD:** That's me. Thank you.

17 **MR. MASHBURN:** Let me know when you're
18 ready.

19 **MS. CURD:** Okay, I'm ready.

20 **MR. MASHBURN:** All right. Two minutes. The
21 floor is yours.

22 **MS. CURD:** Thank you. I proudly was born
23 and raised in the beautiful state of Georgia.
24 Our law stipulates the last day you can register
25 to vote or change a registration address prior to

1 an election.

2 However, in the November 2020 election,
3 being that the last day was October 5th, we had
4 over 45,000 registrants after that date, between
5 October 6th and the 22nd, which was the date of
6 the voter roll. Of those illegal applicants, we
7 have over 5,000 that have a date last voted on
8 November 3, 2020. They're unlawful votes.

9 If you drill down and just look at the ones
10 that registered on November 3rd, again illegal,
11 we have over 3,000 registrants that show a
12 registration and a date added of November 3rd.
13 Several hundred of them received credit for
14 voting.

15 First, it's implausible to believe that
16 election officials were adding thousands on the
17 voter rolls on election day. And it's unlawful
18 for any of them to have actually voted. I think
19 we can agree on that. As you might imagine, the
20 votes were cast in person on election day. Are
21 these even real people? Or are they registrants
22 just inserted into the count? It gets worse.

23 We have over 1,300 registrants that
24 registered after November 3, 2020. Again I think
25 we can agree that's not lawful. But they

1 received credit for voting in the election.
2 There are data analysts continuing this analysis
3 and believe the numbers are much higher. This
4 data is found across multiple counties in the
5 state. These are unlawful votes. Where do these
6 registrants come from? Are they even real?

7 We the people demand an investigation into
8 the Secretary of State's Office. And frankly
9 this is not new information, basically, to any of
10 y'all. You've heard this for three years. I'm
11 stunned that this data doesn't at least tickle at
12 least the spirit of inquiry from my board of
13 electors. Thank you.

14 **MR. MASHBURN:** Thank you, Ms. Curd.

15 Next speaker is Ginger Hurmeier. No, Ginger
16 Hurmenze. Hurmenze. Sorry.

17 **UNIDENTIFIED SPEAKER:** (inaudible)

18 **MR. MASHBURN:** We are number 22 of -- we are
19 number 22 of 30. And just to let you know, we
20 are going to take a break at the end of public
21 comment so that -- we've been going for three
22 hours without a break. So we're going to take a
23 bathroom break at the end of public comment.

24 **UNIDENTIFIED SPEAKER:** (inaudible)

25 **MR. MASHBURN:** It's -- yeah, it's limited to

1 30. We have one hour allocated. So it's going
2 to be 30 speakers.

3 Okay. The next speaker is Ginger Hurmenze.

4 **MS. HURMENZE:** Yes. My name is Ginger
5 Hurmenze. And today I'd like to talk to you
6 about DeKalb County ballots. Keep that in mind.
7 DeKalb County ballots.

8 Mr. Moncla sent another complaint to this
9 board that has not been addressed or brought up
10 for this -- for a hearing. He states in his
11 findings that an ongoing investigation and
12 comparison of ballot images and data from the
13 original November 3, 2020, count and those of the
14 recount significant irregularities have been
15 identified, one of which is the discovery of five
16 DeKalb County ballots which were included in the
17 counted Fulton County original count, number one,
18 the hand count audit, and the machine recount.

19 An impossible succession of multiple
20 failures would have to precipitate a ballot from
21 one Georgia County to be counted in a different
22 county, much less five ballots for five different
23 precincts at three -- of three counts.

24 Mr. Moncla then goes on to detail out of a
25 list election failures, including the ballot

1 barcode scan, voter signature verification, the
2 tabulator programming adjudication, hand count
3 audit, and machine recount of 2020. He concludes
4 this complaint with this statement: The
5 implication of five ballots at issue is -- in the
6 complaint are indicative of a much larger problem
7 than is of a grave concern.

8 This is not someone asleep at the switch,
9 but at every switch for three different counts.
10 Furthermore, there is no way that the tabulators
11 could've been able to read these ballots for
12 either a machine count and there is no way that
13 they could've been read accurately. There is
14 nowhere the signatures from the voters from
15 another county would verify nor could those
16 voters have received credit for voting.

17 This begs the question, what voters were
18 these ballots attributed to and how? Is a
19 corresponding voter even necessary? There is no
20 suitable, theoretical, or even remotely plausible
21 explanation for all systems, protocols, and
22 procedures to have failed for each one of these
23 ballots for all three separate counts. There's
24 no excuse but there is one conclusion.

25 Georgia's electronic system -- election

1 system has completely and astoundingly failed.

2 **MR. MASHBURN:** Thank you, Ms. Hurmenze.
3 Thank you.

4 **MS. HURMENZE:** Thank you.

5 **MR. MASHBURN:** Next speaker is Maxwell
6 Britton. Maxwell Britton.

7 **MR. BRITTON:** Good morning. Maxwell
8 Britton, Coweta County.

9 And David Cross and Kevin Moncla were forced
10 to resubmit their emergency review as a final
11 effort before the 2022 election to urge you to
12 address machine flaws identified and reject the
13 unsupported comments of an anonymous state
14 technician in response to their original
15 complaint.

16 Why would anyone be willing to accept an
17 anonymous technician? Quote, several individuals
18 in different capacities have witnessed the biased
19 reversal of balance. Independent benchmark
20 testing recreated the scenario under controlled
21 conditions and yielded the same overwhelming
22 biased result.

23 Republican voted ballots were reversed at a
24 ratio of 7 to 1 over Democrat voted -- voted
25 ballot reversals. Because the distribution of

1 ballot reversals was not random suggests
2 intentional influence is at play.

3 In essence, ballots are being reversed for
4 error conditions that do not exist. This testing
5 and testimony showed that the ballot reversals
6 are not random. Significant numbers of ballot --
7 paper ballots were scanned but not counted and
8 consistent with the Williamson anomaly and remain
9 otherwise unexplained.

10 For whatever reason, your state technical
11 consultant mischaracterized their presentation.
12 We believe that the documents and reports
13 provided are sufficient to establish that Georgia
14 scanners are malfunctioning in mass if analyzed
15 by an independent examiner.

16 No matter if caused by defect, malware, or
17 malfeasance, the results remain and persist.
18 This alone is sufficient to cause immediately --
19 this is sufficient to cause and immediately
20 suspend the use of Dominion voting systems in
21 Georgia.

22 Once again the voters in Georgia are
23 silenced by an anonymous technician or anonymous
24 report. Where is the leadership demanding
25 transparency in the use of experts? Isn't this

1 your job? This report has the evidence and once
2 again, you ignore it. Thank you.

3 **MR. MASHBURN:** Thank you. Thank you,
4 Mr. Britton.

5 The next speaker is Nancy Arnold. Nancy
6 Arnold. Nancy Arnold. Welcome.

7 **MS. ARNOLD:** Thank you. I'm Nancy Arnold.
8 I'm a DeKalb County resident.

9 Several weeks ago a member of the State
10 Board of Elections, Dr. Janice Johnston, attended
11 a DeKalb County elections board meeting,
12 addressing challenges to the voter rolls. At the
13 end of the meeting, Dr. Johnson -- Johnston
14 commented on the frustration surrounding the
15 process and promised that the state board would
16 come up with new guidelines for the process of
17 challenges, guidelines to clarify and improve the
18 process.

19 Thank you, Dr. Johnston, for your
20 willingness to help and for your time and
21 attention to this important matter.

22 I've sent two e-mails since that DeKalb
23 meeting to the members of the state board, asking
24 about when the guidelines would be available. I
25 received no response. Can you give us an update

1 today on the status of those new guidelines?

2 Thank you.

3 **MR. MASHBURN:** Thank you for your comments.

4 Next commenter is Paul Hershey. Paul
5 Hershey. Welcome. Let me know when you're
6 ready.

7 **MR. HERSHEY:** I think I'm ready now. My
8 name is Paul Hershey. I'm in Fulton County. And
9 I'd like to be very direct and pointed.

10 Number one, the audit that the Secretary of
11 State said took place in six counties, there's
12 e-mails validating that that never took place.

13 **MR. MASHBURN:** If you could -- if you could
14 step just a little bit away from the mic. You're
15 coming in really loud.

16 **MR. HERSHEY:** How about now?

17 **MR. MASHBURN:** Much better. Thank you.
18 Thank you so much.

19 **MR. HERSHEY:** The other thing is is all
20 protocol inside our voting -- inside the state of
21 Georgia violates HB 316, line 536 and 535,
22 because the elector cannot verify 100 percent who
23 they're voting for.

24 Number two, we're also in violation of U.S.
25 Code 450, section 45297, because by the time

1 they -- they mark their ballots, they go over to
2 the scanner, every Tom, Dick, and Harry can see
3 who they voted for. You guys are mandated and
4 you've taken an oath to support and defend the
5 Constitution, both federal and state. You, a
6 board of education[sic] have -- are mandated that
7 you can go to the state I.G., the Inspector
8 General for the state of Georgia, ask for an
9 independent audit of the Secretary of State and
10 you haven't done it. Why?

11 My question is why? When are you going to
12 do what you need to do and support the
13 constituents in your state? You are responsible
14 for the elections of the state of Georgia.
15 You've got the ability to do those things and
16 you're not doing it. What are you doing?

17 That's it.

18 **MR. MASHBURN:** Thank you, Mr. Hershey.

19 The next speaker is Victoria Cruz. Victoria
20 Cruz. Welcome.

21 **MS. CRUZ:** Good morning. Victoria --
22 Victoria Cruz from Athens, Georgia --

23 **MR. MASHBURN:** You're good to go.

24 **MS. CRUZ:** -- in Oconee County.

25 **MR. MASHBURN:** The floor is yours.

1 **MS. CRUZ:** Thank you. Let's see. The facts
2 of the Joseph Rossi and Jack James complaint, SEB
3 2021-181, and its resolution by consent order
4 with Fulton County in 2022 are well known to you.
5 And because of the extensive social media
6 coverage of that case, they are also now known to
7 large numbers of American citizens.

8 Another Rossi complaint, 2023-25 has again
9 been continued, presumably because its
10 allegations have serious implications about the
11 validity of the 2020 presidential election
12 outcome which the board appears loath to explore.

13 All eyes are on Georgia and on Fulton County
14 for good reason. Fulton County was not the only
15 county with voter election anomalies in 2020, but
16 it is the county with the most egregious errors
17 that by themselves if proven could reverse the
18 results of the 2020 presidential election.

19 And yet the Secretary of State, his legal
20 and investigative staff, and the Attorney
21 General's Office have failed to conduct honest
22 and transparent investigations of complaints. In
23 fact, the response of both offices in many cases
24 has been to attack the complainants, some of whom
25 have lost their jobs as election workers or

1 election directors. Are these appropriate
2 actions for those who claim that the 2020 Georgia
3 election was the safest and most secure in the
4 history of the state?

5 The citizens of Georgia are essentially
6 being held hostage by these offices and are
7 depending now on the State Election Board to
8 uphold its responsibilities and perform its
9 duties which are listed in the code. I urge the
10 board to initiate an independent investigation of
11 the Secretary of State's Office because they are
12 proven -- they have proven that they are not
13 motivated to and/or capable of investigating
14 themselves.

15 **MR. MASHBURN:** Thank you, Ms. Cruz.

16 The next speaker is Dan Gasaway. Dan
17 Gasaway.

18 **MR. GASAWAY:** Thank you, Mr. Chairman. Am I
19 too far or too close?

20 **MR. MASHBURN:** You're right on the money --

21 **MR. GASAWAY:** All right.

22 **MR. MASHBURN:** -- Mr. Gasaway. Thank you.

23 **MR. GASAWAY:** I'm back this month on State
24 Election Board case 2018-104.

25 Last month I was with my friend Catherine

1 Engelbrecht out of True the Vote up in the
2 federal courthouse in Gainesville on a case. And
3 she brought it to my attention that y'all had
4 sued her for evidence. So I brought some
5 certified evidence of felony criminal activity
6 just in case so y'all don't have to sue me for
7 evidence. I will give you as many felonies as
8 you can find somebody to prosecute.

9 But I was with Ms. Engelbrecht because I am
10 the person who challenged the lone real plaintiff
11 in that case. And that was about election
12 challenges as well.

13 But I'd ask y'all today to do two things.
14 If we could dispose of 2018-104 and move it to
15 the Attorney General's Office, that would be
16 helpful. I asked for an FBI referral. That's
17 not going to happen, it don't look like. But if
18 you could go ahead and do it, it looks like I'm
19 going to have to fund and bring the quo warranto
20 of all quo warrantos in the history of Georgia,
21 and I'd like for that case to be disposed of
22 before I've brought that quo warranto.

23 But I'd also for you to consider, you know,
24 withdrawing the suit against Ms. Engelbrecht's
25 group. They've done good work in Georgia. I

1 think the federal case made it clear that the
2 person I challenged was an illegal voter. We put
3 her on the stand. There's really no way around
4 it. In fact, of the 50 I challenged -- really I
5 think all 50 were illegal voters -- 44 have now
6 confessed to being illegal voters. The other six
7 won't admit it.

8 But two things. Consider withdrawing the
9 case against True the Vote because otherwise
10 let's prosecute all of the felonies. And I'd
11 liked to leave this certified evidence with your
12 lawyer if you can tell me who that is.

13 Which one? Raise your hand. Okay.

14 And please dispose of 2018-104 because if
15 I've got to fund this protracted litigation with
16 these big lawyers again and spend all this money
17 that I've spent -- and y'all know my record. I
18 am the only person in the history of the state to
19 throw out the same elections twice.

20 And nobody -- I wish I had a crowd like
21 this, donating to me back then. I wouldn't be
22 down a hundred and thirty-eight thousand bucks.
23 But I am.

24 So I want to see some change. I'm going to
25 fund this quo warranto if I have to and we're

1 going to take out the illegal sheriff. See, they
2 don't even know we're the only state in America
3 with an illegal, unconstitutional sheriff roaming
4 our state, and he's the president of the
5 sheriff's association. You can't make it up.

6 Thank you for your service to the citizens
7 of Georgia.

8 **MR. MASHBURN:** Thank you, Mr. Gasaway.
9 Thank you, Mr. Gasaway.

10 Alex, I'll take that from you.

11 Brenda Heidman. Brenda Heidman of Columbia
12 County. I believe it's Heidman. Correct me if
13 I'm wrong, please. Did I get it right?

14 **MS. HEIDMAN:** Yes, you did. You did.

15 **MR. MASHBURN:** Very good. Brenda Heidman,
16 the floor is yours.

17 **MS. HEIDMAN:** Thank you. Thank you, State
18 Election Board. Can you hear me? Okay, I can't
19 hear myself.

20 **MR. MASHBURN:** Your mic is on.

21 **MS. HEIDMAN:** Can you hear me now?

22 **MR. MASHBURN:** Pull it a little closer.

23 **MS. HEIDMAN:** Little closer?

24 **UNIDENTIFIED SPEAKER:** Yeah.

25 **MS. HEIDMAN:** Okay.

1 **MR. MASHBURN:** All right.

2 **MS. HEIDMAN:** Thank you.

3 **MR. MASHBURN:** I think we can hear you.

4 **MS. HEIDMAN:** I'm here for paper ballots and
5 to remove voting machines and to speak on the
6 inaction of the Georgia state leaders, the
7 elected leaders, the legislators, and the State
8 Election Board as well.

9 The inaction hurts voters and citizens of
10 Georgia. The inaction hurts the future of our
11 children, grandchildren, great-grandchildren who
12 aren't born yet because they will see how wrong
13 the voting machine process is and how paper
14 ballots were not instituted and they will come
15 back and ask why.

16 Five, ten, fifteen, twenty years from now,
17 we won't be here. But we'll be leaving our
18 children, grandchildren, great-grand children to
19 inherit a big mess that will be harder to fix.

20 So paper ballots, to me it's extremely
21 simple. It hurts no one. It's for everyone
22 regardless of political party, regardless of
23 income level, socioeconomic status, education,
24 regardless of race, religion. Paper ballots is
25 for everyone and hurts no one. To me it's a

1 simple solution.

2 Please, I ask you please to push for the
3 paper ballots, to remove the voting machines, and
4 make the state legislators and the state leaders
5 do what they're supposed to be doing.

6 **MR. MASHBURN:** Thank you, Ms. Heidman.
7 Thank you. Thank you for your comments.

8 **MS. HEIDMAN:** Thank you.

9 **MR. MASHBURN:** Our penultimate speaker is
10 Chairwoman Grubbs. Chairwoman Grubbs?

11 **UNIDENTIFIED SPEAKER:** She had to leave.

12 **MR. MASHBURN:** She had to leave?

13 Okay, so Diana Hopper. Diana Hopper. Diana
14 Hopper. Two minutes. The floor -- let me know
15 when you're ready. Take your time. Take your
16 time. Okay, two minutes. The floor is yours.

17 **MS. HOPPER:** From Floyd County here,
18 speaking on behalf of myself, Mr. Graham Grimes,
19 and two of his poll workers, Sharon Settinger(ph)
20 and Joy Battles. Mr. Grimes, he's a
21 ten-years-plus poll manager and a poll worker
22 prior to those years. Sharon has been a poll
23 worker for -- since the 2016 election.

24 Mr. Grimes takes great pride in being very
25 meticulous and organized running his precincts.

1 Yet he thought he was not going to be needed
2 because he had not been contacted. Yet one week
3 prior to the election, our election supervisor,
4 Akyn Beck, called him. He was very upset but he
5 went ahead because he loves our country and our
6 county and went ahead. And it sent him into
7 scrambling to contact his poll workers and to get
8 himself organized.

9 At a special meeting, board of elections
10 meeting, on Monday, November 13th, he was there
11 speaking as myself and others and the two poll
12 workers as I mentioned. And they were very, very
13 upset. They had this -- I have the original of
14 what I handed to you. There were more than a
15 hundred voters that were disenfranchised.

16 As you see at the top, it says there were
17 ten more before they even started this list.
18 They started to get a barrage of people coming
19 in. And that's just from two poll workers. The
20 other two poll workers, I was not able to contact
21 them but they also had lists of those that came
22 in, that many of them -- most of them, it was
23 their second time being directed to the new
24 precinct.

25 And then there were more -- and there were

1 others that it was the fourth time. They were
2 upset, threw their arms up, said: I'm sick and
3 tired; I'm not going to go to one other precinct.
4 They had been disenfranchised. Yet, it was --
5 this election was certified. How can that be?

6 Ms. Virginia Harman, our county attorney, at
7 a caucus of the county commissioners, said that
8 the election went well and voter cards are not
9 required to be mailed out. How were the voters
10 supposed to know their new precinct if the
11 voter -- they don't receive voter cards?

12 Myself, many others that were there at that
13 meeting, we expressed our upsetness. We were
14 very upset that I still to this day have not
15 gotten my voter -- my new voter -- my voter card
16 for the new precinct I'm supposed to attend to
17 vote. If I had not gone to those meetings, I
18 would not have known. I would have been just as
19 those going from precinct to precinct.

20 Yet there was a -- I have a picture here of
21 a -- of some signs showing where to go. It says
22 if you have voted here to go to the location, and
23 then on -- this is the building where the --
24 where we have our election meetings, board of
25 election meetings. And yet it didn't say come in

1 here and find out where are you to go. A lot of
2 people just saw this and they left. So --

3 Just one more really quick.

4 **MR. MASHBURN:** Okay.

5 **MS. HOPPER:** So these precincts were
6 consolidated because from 24 down to 19, but why?
7 And whose idea was this? They claimed that it
8 was to save money. Why not get rid of the
9 outdated, expensive, compromised machines and go
10 to the paper -- to the paper ballots?

11 **MR. MASHBURN:** Thank you, Ms. Hopper. Thank
12 you, Ms. Hopper.

13 **MS. HOPPER:** This election should not been
14 cer --

15 **MR. MASHBURN:** Thank you, Ms. Hopper. Thank
16 you, Ms. Hopper.

17 That concludes the public comment section of
18 the agenda. And just for planning purposes,
19 we're going to take a restroom break for about 10
20 to 15 minutes. We've been going solid since
21 8:30. So I know that'll be appreciated. And
22 then we will come back and do old business and
23 new business items, agenda item number 5, then
24 we'll break for lunch. And we'll come back and
25 do investigations reports after lunch.

1 So that's -- that's the schedule.

2 **UNIDENTIFIED SPEAKERS:** (indiscernible)

3 **MR. MASHBURN:** I don't understand the
4 question.

5 (Break taken)

6 **MR. MASHBURN:** If I could have your
7 attention, please, we're going to come to order.

8 One of the things that we try to do is -- on
9 this board is we try to be very family-friendly
10 when we can. And I don't think I'm betraying any
11 confidences in saying this, but we have a
12 representative of Floyd County who is happily
13 expecting a baby very soon. And so she shouldn't
14 be up on her feet extended periods of time and so
15 we're going to try and accommodate her request
16 and take that case out of order.

17 So if everyone from Floyd County, Floyd
18 County could -- I've got it as number 7 on the
19 agenda and another one on 35. So we're going to
20 do 7 -- we're going to do 7 and 35 right now.

21 Floyd County? Oh, you moved, okay. You
22 shifted on me. I didn't see you. I had you back
23 there. Okay.

24 So if Sara Koth -- Sara, if you're ready in
25 case the board has any questions for these two

1 cases.

2 **Cases Recommended to be Dismissed**

3 **MR. MASHBURN:** But what we're going to do
4 now is I'm going to call the case recommended to
5 be dismissed, Floyd County case number 2020-086.

6 Are there any questions from the board? Any
7 questions from the board? This has been a matter
8 being recommended to be dismissed. Has the board
9 had a chance to review the case? Is everybody
10 comfortable with their knowledge of the case?
11 (indiscernible) ready to go? Okay.

12 If so, I am ready to hear a motion that the
13 case be dismissed, if there's one to be made.

14 **MR. LINDSEY:** (indiscernible)

15 **MR. MASHBURN:** A motion's been made to
16 dismiss the case. Is there a second?

17 **MS. GHAZAL:** Second.

18 **MR. MASHBURN:** There's been a second.
19 Discussion by the board? There's been a motion
20 and a second to dismiss SEB 2020-086. Comment?

21 **MS. GHAZAL:** My only comment in the case is
22 it is a good reminder to make sure that each
23 county ensures that they have 10 percent of their
24 registered voters -- emergency ballots
25 representing at least 10 percent of each polling

1 place at each polling place on the opening of
2 election day. This is just a really good
3 opportunity to remind every county they are
4 responsible for that. And if they are found to
5 have not complied with that and that results in
6 delayed voting or voters not being allowed to
7 cast a ballot, they will be held responsible by
8 this body.

9 But that was not the case here. It's just a
10 really good opportunity to offer a reminder.

11 **MR. MASHBURN:** All right. Any further
12 discussion? Any further discussion?
13 Dr. Johnston?

14 **DR. JOHNSTON:** I would like to agree very
15 much with my colleague and not only have those
16 provisional emergency ballots ready at 7 a.m., at
17 the beginning, but also know how to use them and
18 be willing to use them. Thank you. It's a
19 public service announcement.

20 **MR. MASHBURN:** Okay, public service
21 announcement concluded. Any further comments
22 from the board? We're going to vote then. All
23 those in favor of dismissing SEB 2020-086 would
24 say aye.

25 **THE BOARD MEMBERS:** Aye.

1 **MR. MASHBURN:** All those opposed would say
2 no. Motion carries. So 2020-086 is dismissed.

3 Next we raise cases to be recommended for a
4 letter of instruction, SEB 2020-249, Floyd
5 County, improper ballot scanning. Questions?
6 Would you like to give us a brief, just real
7 quick *Reader's Digest* summary of the case --

8 **MR. BRUNSON:** Yes.

9 **MR. MASHBURN:** And then I'll ask the board
10 if they're comfortable and have reviewed it.

11 **MR. BRUNSON:** Yes.

12 **MR. MASHBURN:** Okay.

13 **MR. BRUNSON:** So this is SEB 2022-249,
14 improper ballot scanning. Secretary of State's
15 Office opened this investigation based on the
16 self-reported complaint received from the
17 complainant on October 20, 2022.

18 The complainant shared the complaint that an
19 employee of the Floyd County Elections and
20 Registrations Office brought to the complainant's
21 attention that two unattended ballots printed by
22 the ballot marking device had been scanned into
23 the absentee, in-person tabulator by the poll
24 workers. The voters were not present at either
25 occurrence. The voters placed the printed

1 ballots into the absentee ballot mail drop box as
2 opposed to scanning it into the tabulator.

3 The employee who brought it to the
4 complainant's attention witnessed this incident
5 and was present when the poll workers retrieved
6 the ballots from the ABM drop box and scanned
7 them into the tabulator. The ballots were not
8 scanned until after the poll location was closed
9 for the day of each occurrence.

10 This is a potential violation of Georgia
11 Election Rule 183-1-12-.11(3) which stipulates --
12 and I'm quoting in part: Poll officers shall
13 also check that no ballots are left in the
14 printing -- in the printer or anywhere in the
15 enclosed space of an appropriate ballot box. Any
16 ballots found in the enclosed space that do not
17 belong to a voter currently in the enclosed space
18 shall not be counted but shall be secured and
19 labeled as unattended ballots.

20 So that's what should've happened even
21 though these individuals properly did everything
22 except put it in the tabulator. They put it in
23 the wrong place because they got confused
24 apparently. And so the individuals for the
25 county felt, well, this is a voted ballot; we're

1 going to scan it through. However, that's not
2 the proper process to deal with these two ballots
3 that were put through in that manner.

4 **MR. MASHBURN:** Okay. Questions by the board
5 for the investigator? Okay.

6 Would Floyd County like to be heard? You
7 have no burden of proof, so you don't have to be
8 heard if you don't want to, but you are welcome
9 to be heard if you'd like.

10 **MS. HARMAN:** Virginia Harman. I am the
11 Floyd County attorney. No, we have no -- the
12 investigator has done a thorough job. It was
13 self-reported. Ms. Beck had just come to Floyd
14 County at the time. We have since done a
15 tremendous amount of training of all of our
16 workers. We're -- we're continuing that process
17 and hope we'll be in the position to never have
18 this happen again. We've done that training.
19 We're happy to receive the letter of instruction.
20 We'll continue it and are just here to answer any
21 questions that the board might have.

22 **MR. MASHBURN:** Thank you. Questions for
23 Floyd County from the board? No questions. At
24 this time, I'm -- entertain a motion.

25 **MS. GHAZAL:** I move that we issue a letter

1 of instruction.

2 **MR. MASHBURN:** There's been a motion to
3 issue a letter of instruction. Is there a
4 second?

5 **DR. JOHNSTON:** Second.

6 **MR. MASHBURN:** There's been a motion and a
7 second to issue a letter of instruction. Any
8 discussion? All those in favor would say aye.

9 **THE BOARD MEMBERS:** Aye.

10 **MR. MASHBURN:** All those opposed would say
11 no. Motion passes. A letter of instruction will
12 be issued. That completes Floyd County on the
13 agenda, so y'all are free to go.

14 And just for the chair's education and
15 information, are there any cases -- in the cases
16 recommended to be dismissed, are there any cases
17 that the board would like to pull from the cases
18 to be dismissed?

19 **DR. JOHNSTON:** Yes.

20 **MR. MASHBURN:** Are there any that you would
21 like to be pulled?

22 **DR. JOHNSTON:** Yes.

23 **MR. MASHBURN:** Okay. If you can give me
24 your list, please.

25 **DR. JOHNSTON:** I'd like to pull case

1 2022-348.

2 MR. MASHBURN: 348.

3 MR. LINDSEY: Number 28.

4 MR. MASHBURN: Number 28. That's the only
5 one?

6 DR. JOHNSTON: That's the only one.

7 MR. MASHBURN: Okay. That's the only one.
8 Board member Lindsey, any cases you'd like
9 to pull?

10 MR. LINDSEY: Actually (inaudible).

11 MR. MASHBURN: Okay. Board Member Ghazal,
12 is there any like -- you'd like to pull?

13 MS. GHAZAL: (shaking head)

14 MR. MASHBURN: Okay. What I will do to make
15 the most use of our time as available is I will
16 accept a motion at this time that the cases
17 recommended to be dismissed, other than 28 and
18 7 -- and 86 and 7 which we've already handled,
19 all be dismissed. I'll entertain that motion if
20 anybody's ready to make it.

21 MR. LINDSEY: So moved.

22 MR. MASHBURN: Okay.

23 DR. JOHNSTON: Second.

24 MR. MASHBURN: There's a motion been made
25 and seconded. The board -- just for those that

1 this might be your first meeting, the board
2 traditionally handles these in bulk unless a
3 board member particularly wants one pulled out
4 for particular discussion. There might be any
5 reason -- any reason why. But there's been a
6 motion made to dismiss all but eighty -- 2020-86
7 which has been handled and 2022-348 which we're
8 going to pull. And those have been a motion to
9 dismiss in bulk.

10 Sara? Board Member Ghazal?

11 **MS. GHAZAL:** Was case 2022-011, Tybee
12 Island, was that continued or not? I believe
13 that was continued.

14 **MR. MASHBURN:** Yeah, Tybee Island was
15 continued.

16 **MS. GHAZAL:** Okay.

17 **MR. MASHBURN:** That's right. That's 0-1-1,
18 continued. Thank you for bringing that to my
19 attention. You're absolutely correct. Thank you
20 for bringing that to my attention.

21 So now we have -- we're going to exclude
22 2020-086, 2022-011, and 2022-348 from a motion in
23 bulk to dismiss. Is there -- is there such a
24 motion?

25 **MR. LINDSEY:** So moved.

1 **MR. MASHBURN:** Been a motion. Is there a
2 second?

3 **MS. GHAZAL:** Second.

4 **MR. MASHBURN:** Motioned and seconded.
5 Discussion? Okay.

6 **DR. JOHNSTON:** Oh, I --

7 **MR. MASHBURN:** There's discussion?

8 **DR. JOHNSTON:** Mr. Chairman, one -- one
9 comment to be noted in all of these that are to
10 be dismissed is that more than the majority, the
11 vast majority of these cases that are to be
12 dismissed are complaints about absentee voting.
13 All of these were investigated and merit being
14 dismissed. I just think the public and maybe
15 those listening should hear that we -- we have to
16 deal with many, many complaints about absentee
17 voting. Thank you.

18 **MR. MASHBURN:** Any further discussion? We
19 will have a vote. All those in favor of
20 dismissing all but 2020-086, 2022-011, and
21 2022-348 in bulk would say aye.

22 **THE BOARD MEMBERS:** Aye.

23 **MR. MASHBURN:** All those opposed would say
24 no. Motion carries unanimously. Okay. Since
25 we've got a minute, are you ready with -- are

1 y'all ready with 2022? Are y'all ready with
2 2022-348?

3 **UNIDENTIFIED SPEAKER:** 328.

4 **MR. MASHBURN:** 2022-348? The one you wanted
5 to pull?

6 **UNIDENTIFIED SPEAKER:** 328?

7 **MR. MASHBURN:** 348.

8 **DR. JOHNSTON:** No, it's three twenty -- I'm
9 sorry. You're right, 348. But I believe
10 Mr. Barnes had planned to be here to answer
11 questions about this case.

12 **MR. MASHBURN:** Oh, that's the one at 2:30.
13 Okay. All right, so we're going to hold that.
14 Yeah. Good job. Thank you. All right, so we're
15 holding that at 2:30. Okay.

16 Are there any -- just for the board's
17 edification, are there any letters of instruction
18 cases that the board would like to have pulled?
19 Are there any cases for letters of instruction
20 the board would like to have pulled? We'll give
21 board Member Ghazal a minute. I know this is
22 catching you by surprise. I'm sorry.

23 **MS. GHAZAL:** Tab number 32.

24 **MR. MASHBURN:** Tab 32.

25 **MS. GHAZAL:** That is SEB 2021-102.

1 **MR. MASHBURN:** 2021-102.
2 **MS. GHAZAL:** Tab 33.
3 **MR. MASHBURN:** Tab 33.
4 **MS. GHAZAL:** 2022-106.
5 **MR. MASHBURN:** 2022-106.
6 **MS. GHAZAL:** And finally tab 37, 2020-107.
7 **MR. MASHBURN:** That's an Attorney General
8 case, right?
9 **MS. GHAZAL:** Okay. Hold.
10 **MR. MASHBURN:** All right, so we'll do that.
11 So you want to pull 32, 33.
12 **MS. GHAZAL:** Yes.
13 **MR. MASHBURN:** Okay. And, Dr. Johnston, do
14 you have any that you'd like to pull?
15 **DR. JOHNSTON:** Yes. Tab 34, case --
16 **MR. MASHBURN:** Tab 34.
17 **DR. JOHNSTON:** -- 217.
18 **MR. MASHBURN:** Tab 34, okay.
19 **MR. LINDSEY:** I'm sorry. Dr. Johnston,
20 which one?
21 **MR. MASHBURN:** Tab 34.
22 **DR. JOHNSTON:** Right.
23 **MR. LINDSEY:** Okay.
24 **MR. MASHBURN:** Okay. So we've got 29, 30,
25 and 31 cases, letters recommended for -- and

1 letter of instruction that have not been pulled.
2 Is there a motion to issue letters of instruction
3 for those in bulk?

4 **MS. GHAZAL:** So moved.

5 **MR. MASHBURN:** There's been a motion. Is
6 there a second?

7 **MR. LINDSEY:** Second.

8 **MR. MASHBURN:** There's been a motion and a
9 second. Is there any discussion? So there's
10 been a motion. There's no discussion. Is there
11 a -- so we're ready to vote. All those in favor
12 would say aye.

13 **THE BOARD MEMBERS:** Aye.

14 **MR. MASHBURN:** All those opposed would say
15 no. So that motion carries and those are
16 handled. Okay.

17 We're going to take a short recess of five
18 minutes while I get my thoughts together on
19 something. So we'll just take a short recess of
20 five minutes.

21 (Break taken)

22 **MR. MASHBURN:** Okay. We're back on. So
23 here's -- here's what we're going to do. The big
24 case that everybody is interested in is under new
25 business. SEB 2023-001. And they're outside

1 having a press conference right now.

2 **UNIDENTIFIED SPEAKER:** Just ignore them and
3 start.

4 **MR. MASHBURN:** Just ignore them and start?
5 I don't -- I don't think they'd like that.

6 **UNIDENTIFIED SPEAKER:** (indiscernible)

7 **MR. MASHBURN:** So what we're going to do is
8 we're going to break for lunch. And we'll --
9 we'll break for lunch for an hour and then we'll
10 be back here in hour and that -- we'll pick that
11 up first. Is there actually unanimous consent to
12 that? So ordered.

13 (Break taken)

14 **MR. MASHBURN:** Okay, ladies and gentlemen,
15 we're going to call the meeting back to order.
16 Hopefully everybody had a good -- good lunch and
17 a good press conference and they got everything
18 done they needed to get done. So we'll try and
19 get -- get moving on this afternoon's agenda.

20 **New Business**

21 **MR. MASHBURN:** First thing on the afternoon
22 agenda is we're going to handle old business and
23 new business items. There is no old business.
24 So we have a new business item which is a
25 discussion by the board members on SEBBI

1 2023-0001.

2 And this is an agenda item placed on the
3 agenda by board member Edward Lindsey. And so he
4 is going to lead that part of the discussion.

5 The floor is yours, board member Lindsey.

6 **MR. LINDSEY:** Thank you, Mr. Chairman.

7 And -- and, Mr. Rossi, I apologize. What I
8 was thinking about before we came here and with
9 the board's permission, is there something that
10 you would like to say for a few minutes about the
11 jurisdiction that's over -- our jurisdiction over
12 the Secretary of State on this matter? Anything
13 you want to add?

14 **MR. ROSSI:** (inaudible)

15 **MR. LINDSEY:** Yeah, I'm serious. Yeah.
16 Just four or five minutes. You know, I think
17 that obviously we've got a group here that's been
18 very interested in the complaint and I think that
19 in the interest of fairness that we ought to give
20 you a chance to speak to it publicly for a few
21 minutes.

22 **MR. MASHBURN:** So that's a unanimous --

23 **MR. ROSSI:** Well, I appreciate the
24 opportunity --

25 **MR. MASHBURN:** That's a unanimous --

1 unanimous -- unanimous motion -- what --
2 **MR. LINDSEY:** Unanimous consent.
3 **MR. MASHBURN:** Unanimous consent motion.
4 Unanimous consent motion. So is there any
5 objection?
6 Hearing no objection, Mr. Rossi, you have
7 five minutes.
8 **MR. ROSSI:** Okay. I appreciate the
9 opportunity to speak. I will say I'm not
10 prepared because I didn't know I was going to get
11 to do this.
12 **MR. LINDSEY:** And I apologize for that.
13 **MR. ROSSI:** That's all right.
14 **MR. LINDSEY:** As I looked at it --
15 **MR. ROSSI:** (indiscernible) --
16 **MR. LINDSEY:** Mr. Rossi, let me just say I
17 apologize for that. I was looking at it as we
18 walked in here. I was going, this is a serious
19 matter. We've had several people to speak of it
20 earlier. And that -- and you've worked very hard
21 on this and fought very hard for this and I
22 thought you ought to have a few minutes.
23 **MR. ROSSI:** I'll do my best. As
24 Mr. Mashburn knows, I'm not an attorney, right?
25 I'm an engineer.

1 **UNIDENTIFIED SPEAKER:** You had told me that.

2 **MR. ROSSI:** And a funny story, if I may for
3 a second. I got an invite to brief the board on
4 this matter and I started calling Miss Alex over
5 there because I thought brief the board meant you
6 come up and meet with them. And her and
7 Mr. Mashburn corrected my nonlegal mind and said
8 brief the board means you write something. They
9 don't sit down and meet.

10 So anyways, I'll put it to you in nonlegal
11 terms. So all along as we did this investigation
12 of the errored recounts, both the Fulton County
13 hand audit and what hopefully will become
14 verification of the second machine count errors,
15 attorney Jack James and I have had in the back of
16 our mind that the errors obviously originated in
17 Fulton County. However, we made it perfectly
18 clear to every person we ever talked to that we
19 can't just point fingers at Fulton County. There
20 has to be some accountability for the chief
21 election official of the state --

22 **UNIDENTIFIED SPEAKER:** Yes.

23 **MR. ROSSI:** -- who is Mr. Raffensperger.

24 So whether it was -- and to be honest, we
25 felt like there was a conservative coverup effort

1 to protect the Secretary of State's Office for
2 any accountability and to send this through to
3 Fulton County, give them a little slap on the
4 wrist and not do anything to damage the
5 Raffensperger narrative which was both recounts
6 were perfect so what are you arguing about?
7 Because they're not.

8 So whether it's Ms. McGowan's unsolicited
9 phone call to Jack James after -- she couldn't
10 deny the errors after Governor Kemp's letter came
11 out -- out of the clear blue, basically trying to
12 strongarm and telling he and I to back off the
13 Secretary of State and stay focused on Fulton
14 County. Number one.

15 Number two, shortly after that, in December
16 of the same year, when I was meeting with the
17 investigators on the hand audit errors -- it was
18 a good meeting, it was a long meeting -- it
19 became obvious to me that they were not
20 independent.

21 And at the beginning I asked them, I said,
22 How do you guys ensure Jack and I that you're
23 independent? And Mr. Baron who was with their --
24 with them -- and this is a transcribed meeting,
25 so you could all listen to my words and their

1 words -- Mr. Baron said, We're independent even
2 though we work for the Secretary of State. And
3 we will go wherever the data leads.

4 So about two or three hours into the
5 meeting, it became obvious that Mr. Zagorin was
6 getting frustrated because he couldn't convince
7 me that there weren't errors. Because I knew
8 there were. I studied them, you know, for
9 months. Double, triple counts. I didn't bring
10 that poster. I should've brought that today.

11 But he finally just was so frustrated, he
12 made this comment, he said: So, Mr. Rossi, you
13 think just because these errors are posted on
14 our -- I'm not an English major, but when you say
15 "our," o-u-r, you are referring to us, posted on
16 our website, keep in mind, they're independent.
17 And just because they're posted on our website
18 does not make it our responsibility.

19 So right at that point I knew, okay,
20 Ms. McGowan, now the Secretary of State's trying
21 to protect his -- his position. And then came
22 the board meeting. And I'm going to do this
23 cautiously with Mr. Mashburn.

24 But I have learned some things since then,
25 Matt.

1 When I went to that meeting, I went to that
2 meeting knowing that the errors were created in
3 Fulton County, that I also felt very
4 uncomfortable with the way the Secretary of
5 State's Office handled these audits. I gave them
6 the opportunity after that hearing in December, I
7 said, Why don't you just go back and ask the
8 Secretary of State to simply put a footnote on
9 that report and say, The governor's team has
10 found this report to have errors -- you owe that
11 to the public -- and just say you're
12 investigating it? That's simple. Simple
13 honesty. And they refused to do that.

14 So in that meeting on the 16th, I was
15 determined to bring up all my e-mails that I had
16 between myself, McGowan, Sterling because I
17 wanted the public and the board to know that this
18 is Fulton County originated errors, but we're not
19 going to fix the problem unless we hold the
20 Secretary of State accountable.

21 And in that meeting I was mad at
22 Mr. Mashburn, to say the least, because he
23 said -- every time I brought it up, he said,
24 You're out of order. You're out of order.
25 You're out of order. I had many people call me

1 after that and say, How did you feel like you
2 were treated? And I said, I feel like I was
3 disrespected.

4 Since then I kind of half understand what
5 Matt did. So I'll give him kind of the benefit
6 of the doubt, but I still wish I would've had the
7 chance to bring up the Secretary of State.

8 So since then, as a lawyer, he has corrected
9 me, as an engineer, that he gets the cases -- and
10 Alex sent me the case sheet, you get a case
11 sheet -- and when it comes to the board, it
12 checks who is the respondent. So somebody -- I
13 don't know who -- at the AG's office, the
14 Secretary of State's Office, or the SEB office --
15 checked Fulton County only. So he basically did
16 what that case sheet said.

17 Now, I don't know if the board was involved
18 in developing that case sheet or whether it came
19 directly from the Secretary of State. So I kind
20 of half understand why I was shut down a year
21 later.

22 So after that meeting, I decided with Jack
23 in a sloppy way -- it's not a very professional
24 document, I apologize for that, we filed a
25 complaint against -- directly against the

1 Secretary of State for election code violations.
2 And the main one is that when errors are reported
3 to the Secretary of State, which they were in
4 February, they're supposed to do something about
5 it. And they didn't do anything about it.

6 So that case -- that complaint was filed
7 March 21st of '21. And there was a lot of
8 confusion on that case as to whether it was tied
9 to 181, was it a real case, was it closed? Judge
10 Duffey and I went back and forth many, many times
11 with -- I can't remember who the assistant
12 attorney -- I think it was Elizabeth Vaughan from
13 the Attorney General's Office, she finally helped
14 us find it.

15 And Mr. Duffey at that time, in July, he
16 didn't tell his he was going to open a case, he
17 told me he was going to take it to the Secretary
18 of State and look into it. He apparently -- I
19 don't have my flipchart up here. He apparently
20 opened up a case on an investigation of the
21 Secretary of State for election code violations
22 only to be shut down by none other than
23 Ms. McGowan who moved from the Attorney General's
24 Office to the Secretary of State's attorney.

25 And he didn't have to send me that e-mail.

1 He didn't have to send the attachment. He
2 could've sent me an e-mail that said, Mr. Rossi,
3 this case is closed. Looked at what Ms. McGowan
4 just said. But, you know, thank goodness
5 something -- I've got to believe -- I've never
6 talk to him since -- something went off in his
7 head and said something is not right here. The
8 Secretary of State is not untouchable.

9 And so he did -- he sent me the e-mail with
10 her attachments. Says, Mr. Rossi, here's what
11 Ms. McGowan told me. And so she basically said,
12 Judge Duffey, I hear that you have asked Sara,
13 election director, to open up a case against --
14 filed by Mr. Rossi for the Secretary of State's
15 election code violations regarding the RLA hand
16 audit posted on our website -- there's that word
17 "our" again. We don't own it but it's on our
18 website -- and I am letting our investigators
19 know that they will no longer -- this case is
20 closed basically.

21 And then at the end of her e-mail, she said,
22 I trust -- Chairman Duffey, I trust that you will
23 let Mr. Rossi know that this case is closed. So
24 again -- I spoke earlier -- I'm not sure how
25 Judge Duffey took that, but he didn't accept it

1 and in the body of his e-mail, his last sentence
2 said, We're considering our options regarding
3 this matter.

4 So then I began the communication with the
5 board, Mr. Mashburn. He knew there was a case.
6 He knew what Chairman Judge Duffey had done. And
7 to his credit, he said, Hey, you know, we're
8 going to take this seriously.

9 I don't agree on the unlimited time frame
10 because I'm an engineer and I like things done.
11 Done, done, done. But I understand sometimes the
12 law does not go like that.

13 But I think that's where we're at today in
14 the -- I'm not asking the board at this point to
15 hear on the merits of the case. I'm asking them
16 to rule that they have the authority to
17 investigate the State Election Board [sic]
18 because if -- if they don't rule like that, then
19 the governor doesn't have authority over the
20 Secretary of State's Office. He wrote me that
21 night, great letter, but he made it very clear
22 that that is not his lane. He's not the chief
23 election official.

24 So anyways that's kind of where --

25 **MR. LINDSEY:** (inaudible) quick question.

1 **MR. ROSSI:** Yeah.

2 **MR. LINDSEY:** Did you ever file

3 (inaudible) --

4 **MR. ROSSI:** Inspector General.

5 **UNIDENTIFIED SPEAKER:** We can't hear.

6 **MR. LINDSEY:** Did you ever file a complaint

7 with the Inspector General?

8 **MR. ROSSI:** No, sir.

9 **MR. LINDSEY:** Okay. I'm just sort of

10 curious.

11 **MR. ROSSI:** I'm a novice at this. I --

12 **MR. LINDSEY:** No, no. I understand. I'm

13 just --

14 **MR. ROSSI:** I don't even know where to begin

15 --

16 **MR. LINDSEY:** I'm just --

17 **MR. ROSSI:** -- with the Inspector General.

18 **MR. LINDSEY:** I'm just curious. Thank you,

19 Mr. Rossi. I appreciate it. Thank you.

20 **MR. MASHBURN:** Thank you. Okay, thank you,

21 Mr. Rossi. Just for the purposes of the court

22 reporter, who -- who is taking down this, Miss --

23 I think at the very end of your remarks you said

24 that we should investigate the State Election

25 Board. And I think you meant the Secretary of

1 State.

2 So such for the court reporter, I'm going to
3 go ahead and authorize the court reporter to make
4 that change from investigate the state election
5 board to investigate the Secretary of State. So
6 she'll take --

7 **MR. ROSSI:** Yeah.

8 **MR. MASHBURN:** The court reporter will take
9 care of that.

10 Okay. The other thing is before we get to
11 Mr. Lindsey continuing this discussion, out of a
12 courtesy to our fellow citizens is -- Fulton
13 County is here for a case, 2021-102, and there
14 was a problem with a notice to one of the
15 respondents. The respondent did not get notice
16 of this hearing. So that case is going to be
17 continued to give the respondent notice of a
18 hearing and the chance to be here.

19 So Fulton County is excused. You're welcome
20 to -- to listen to the debate or head off to --
21 to other things if you wish, but just wanted to
22 let you know that's been continued because one of
23 the respondents didn't get notice.

24 Yes, sir, Mr. Rossi?

25 **MR. ROSSI:** (inaudible) more seconds,

1 please?

2 **MR. MASHBURN:** Sure. Well, let me ask
3 unanimous consent for Mr. Rossi to have another
4 couple minutes. Without objection, so ordered.

5 **MR. ROSSI:** (inaudible) I filed a brief.
6 It's not a very good brief. I thought it was a
7 meeting. I wrote what I did. I looked up the
8 code. I felt comfortable that they had the
9 authority. But there's some intelligent lawyers
10 that have submitted -- I guess you call it an
11 amicus letter with many, many documents, much
12 information that has been provided to the board.
13 I trust that y'all have gotten that. That
14 basically states that they do have the authority.

15 So thank you for letting me have that last
16 comment.

17 **MR. LINDSEY:** Thank you.

18 **MR. MASHBURN:** Certainly.

19 **MR. LINDSEY:** Appreciate it.

20 **MR. MASHBURN:** Okay. Mr. Lindsey has the
21 floor.

22 **MR. LINDSEY:** Mr. Chairman and the other
23 folks here today who are interested in this
24 matter, you know, we -- the difficulty in this
25 case is -- is that we have, for instance, a very

1 old attorney general's opinion from -- what? '05
2 or '06? --

3 **MR. MASHBURN:** '05.

4 **MR. LINDSEY:** -- that says that we don't
5 have jurisdiction over the Secretary of State.
6 I'm just sort of giving you the history here,
7 folks. Hear me out, okay?

8 **MR. MASHBURN:** It's not -- this is not a
9 debate.

10 **MR. LINDSEY:** I understand. And we have --

11 **MR. MASHBURN:** Mr. Lindsey has the floor.

12 **MR. LINDSEY:** And we have that and I've read
13 the other opinions as well. And we've asked for
14 additional updated opinions. And so far we
15 haven't received them yet. And therein lies the
16 difficulty, is first trying to decide if we have
17 jurisdiction over this matter.

18 At the end of the day, though, I come down
19 to this. Back when I started considering whether
20 or not we -- we either have or we should have
21 jurisdiction. And we have jurisdiction over a
22 hundred and fifty-nine election boards. We have
23 a -- as well as their supervisors. We have
24 jurisdiction over literally thousands of
25 part-time and full-time election officials as you

1 guys have heard in the various hearings today.
2 We have jurisdiction over 10 million Georgians if
3 you step out of line as you've heard today.

4 And so if we don't have jurisdiction in --
5 and one of our charges is to -- is to ensure
6 that a -- fair and free elections. And if we
7 don't have jurisdiction, then we damn well should
8 in my opinion, or somebody should.

9 Whether or not the General Assembly wishes
10 to give us that jurisdiction or wishes to bestow
11 that on someone else, you know, I leave that up
12 to the wisdom of the General Assembly, and having
13 once been there.

14 And for that reason, I want to make a motion
15 that we have jurisdiction so that a -- we can
16 move forward with an investigation. And I say so
17 without any references to the merits of -- of it.
18 Having read it, I have certain questions about
19 the merits. I'm not sure how I would vote. But
20 I do think that -- that if we don't, somebody
21 should have jurisdiction to -- to investigate the
22 Attorney General[sic]. That's why I asked about
23 the Inspector General.

24 **UNIDENTIFIED SPEAKER:** Secretary of State.
25 Secretary of State.

1 **MR. LINDSEY:** No, that's why I asked --
2 thank you. Secretary of State. That's why I
3 asked about the Inspector General.

4 But there ought to be accountability by --
5 by every elected official, particularly on
6 election matters.

7 And for that reason, Mr. Chairman, I would
8 move that we have -- that we have jurisdiction
9 and that we move forward an investigation.

10 **MR. MASHBURN:** Okay. There's been a --
11 there's been a motion that the board exercise
12 jurisdiction over the Secretary of State to hear
13 complaints against the Secretary of State. Did I
14 correctly state the motion?

15 Is there a second?

16 **DR. JOHNSTON:** Second.

17 **MR. MASHBURN:** There's been a second. Okay.
18 So now we move to discussion. The discussion
19 will proceed in reverse order of seniority.

20 So Dr. Johnston, you have the floor first.

21 **DR. JOHNSTON:** Always good to go first.
22 Thank you. Well, in anticipation of this
23 discussion, I prepared some notes. So let me
24 share these with all of you here and maybe those
25 listening.

1 It is my view that the State Election Board
2 has the power to direct an investigation of the
3 Secretary of State, the election officials in the
4 Secretary of State's Office, or both. A reading
5 of the statutory provisions dealing with the
6 board make this apparent.

7 Although the board and the secretary both
8 address elections, their duties are different.
9 The board was created by the General Assembly and
10 given the statutory duty to ensure that election
11 officials conduct elections in a legal, honest,
12 and uniform manner.

13 It is the board's duty to investigate and
14 report election violations, fraud, or
15 irregularities, 21-2-31. The board has the power
16 to examine under oath any person concerning any
17 matter connected with or bearing on the proper
18 discharge of its duties. The face of these
19 provisions provides no limit.

20 Therefore, before the Secretary of State or
21 his office can claim immunity from investigation,
22 they must identify some provision of the law
23 granting it to them. This, they have failed to
24 do. Chapter 21 of Georgia code already provides
25 for violations that might be part of an election

1 complaint against the Secretary of State in
2 O.C.G.A. 21-2-586 and O.C.G.A. 21-2-596.

3 Many statutes in the election code refer to
4 required conduct by an election official. The
5 Secretary of State is the chief election official
6 in the state.

7 O.C.G.A. 21-2-50 states the Secretary of
8 State shall receive from the superintendent
9 returns of primaries and elections and to canvass
10 and compute the votes cast for candidates.

11 O.C.G.A. 21-2-499 provides the Secretary of
12 State shall immediately proceed to tabulate,
13 compute, and canvass the votes cast, and in
14 event -- in the -- and in the event an error is
15 found in the certified returns presented to the
16 Secretary of State or in the tabulation,
17 computation, or canvassing of votes is described
18 in this code section, Secretary of State shall
19 notify the county submitting the incorrect
20 returns and direct the county to correct and
21 recertify such returns.

22 O.C.G.A. 21-2-495 states: Any other
23 provision of this code section to the contrary
24 notwithstanding, a candidate for a federal or
25 state office voted upon by the electors of more

1 than one county may petition the Secretary of
2 State for a recount or recounts of votes as
3 appropriate when it appears that a discrepancy or
4 error, although not apparent on the face of the
5 returns, has been made, a recount may be ordered
6 in the discretion of the Secretary of State.

7 I believe that SEB 2023-025, which deals
8 with the general election count and an official
9 recount of the general election contest, is a
10 case that pertains to the role and responsibility
11 of the Secretary of State. The complaint is
12 complex and -- and large in scope. It involves
13 alleged inaccuracies, inconsistencies, and
14 irregularities in counts for a presidential
15 contest in one county that represents 10 percent
16 of the votes in the state.

17 The findings in a prior complaint, SEB
18 2021-181, that was concluded with a consent
19 order, found 4,081 votes that were erroneously
20 given to one candidate in a careful review of a
21 third of the ballots by the governor's team and
22 Mr. Rossi and Mr. Moncla. If one were to
23 calculate the same error rate in a hundred
24 percent review of that same county, there would
25 be over 12,000 votes given to a candidate in

1 error.

2 Mr. Rossi and Mr. Moncla's complaint,
3 2023-025, questions the accuracy of the recount
4 and the original count of the presidential
5 contest of 2020. They question the veracity of
6 scanner vote totals because of lack of
7 documentation. Mr. Rossi and Mr. Moncla allege
8 the recount resulted in almost 18,000 votes short
9 and over 3,000 duplicate vote counts.

10 According to the complaint, ten scanners
11 have no election documents for 20,713 votes.
12 Perhaps the county or other election officials
13 can produce the proper documents or evidence.
14 There is no foregone conclusion of the outcome of
15 the investigation, but the board and the
16 secretary need to answer the factual questions of
17 Mr. Rossi and Mr. Moncla. Without documentation
18 anyone should question the validity of results.
19 Without proper investigation the allegations
20 cannot be addressed, supported, or denied.

21 The legislature clearly provided in adoption
22 of O.C.G.A. 21-2-33 that the board should have
23 the resources available to conduct such an
24 investigation with professional independent
25 investigators. The Secretary of State shall

1 upon -- it states: The Secretary of State shall
2 upon the request of the State Election Board
3 provide any and all the necessary support and
4 assistance that the State Election Board in its
5 sole discretion deems -- determines is necessary
6 to enforce this chapter to carry out or conduct
7 its duties.

8 In conclusion, from the Attorney General's
9 opinion of 2005-3, the State Election Board --
10 this is a quote: The State Election Board
11 fulfills its responsibilities in providing
12 direction and oversight of the Secretary of State
13 and other election officials when such discretion
14 is necessary to ensure uniformity in their
15 practices and procedures for the legality and
16 purity of the electoral process.

17 And most importantly, from the office of the
18 governor: The office of the governor does not
19 have the authority to investigate election
20 matters. Such authority resides with the State
21 Election Board. Thank you.

22 **MR. MASHBURN:** Order, please. Can we have
23 order, please.

24 Thank you for your comments, Dr. Johnston.

25 We now continue in proceeding in reverse

1 seniority. And Mr. Lindsey is up again if he
2 wishes.

3 **MR. LINDSEY:** I believe I've stated my
4 reason for my motion.

5 **MR. MASHBURN:** Okay.

6 **MR. LINDSEY:** No reason to prolong it.

7 **MR. MASHBURN:** Okay. We move -- we move
8 therefore to -- we move therefore to member
9 Ghazal.

10 **MS. GHAZAL:** Thank you. I take this
11 responsibility on the board extremely seriously.
12 I spend many hours researching the law,
13 researching the facts, reading cases. And when I
14 was sworn in, I swore to uphold the Constitution
15 of the United States and the Constitution of
16 Georgia. Under the Constitution of Georgia, the
17 Secretary of State is a constitutional office.
18 The State Election Board is created by a
19 legislature, by legislation, and we are
20 appointed.

21 Because of the constitutional constraints,
22 their must be an extraordinarily explicit
23 delegation of authority to the secretary -- to
24 the State Election Board to give us authority to
25 investigate a constitutional office and I do not

1 read that delegation of authority in the
2 legislation as it currently stands.

3 The Georgia General Assembly has shown
4 itself entirely capable of making this sort of
5 explicit delegation of authority when in the
6 previous legislative session they established a
7 board to oversee constitutional officers in the
8 form of district attorneys. They -- they also
9 wrote legislation giving us more autonomy. They
10 did not give us an explicit delegation of
11 authority to oversee and investigate the
12 Secretary of State's Office.

13 In fact, in the initial draft of the
14 legislation, they had granted us authority to
15 hire independently our own investigators. That
16 language was removed from the draft legislation
17 and is no longer in there. And the implication
18 of that change before the legislation was put
19 before the General Assembly is that the General
20 Assembly chose not to give us the authority to
21 hire our own investigators.

22 The state supreme court has also shown
23 itself to view these delegations of authority
24 extremely narrowly when they chose not to
25 exercise the authority granted explicitly to them

1 in reference to another oversight commission.

2 Now, transparency and accountability are
3 extremely important for every office, ours and
4 every -- and every elected office, including
5 constitutional officers. The Attorney General
6 retains the authority to investigate violations
7 of Georgia code, whether it's civil or criminal.
8 We also have an Inspector General. And the
9 ultimate authority is the voter.

10 Now, the underlying facts of the case at
11 hand were already adjudicated in the case of
12 Fulton County. It was reported on in 2022.
13 Subsequently the Secretary of State was reelected
14 by the voters of the state by a larger margin
15 than any other -- excuse me.

16 **MR. MASHBURN:** Order. Order.

17 **MS. GHAZAL:** By a larger margin than any
18 other statewide office. The voters --

19 **MR. MASHBURN:** Order. Order.

20 **MS. GHAZAL:** -- have demonstrated their
21 faith and they're -- they have held account --
22 they have held the office accountable.

23 And therefore I do not believe that at
24 present we have the authority to oversee or
25 investigate the Secretary of State.

1 **MR. MASHBURN:** Thank you, member Ghazal.
2 Appreciate that. I'd like to remind everyone
3 here that this is a -- an extremely serious
4 matter. It's very solemn. It's a very solemn
5 event. It's the closest I've been to a
6 constitutional crisis in my lifetime. And so it
7 needs to be treated as such. So I caution those
8 that don't seem to think that this is the severe
9 matter that it is.

10 Article IV, section 4 of the United States
11 Constitution provides that United States shall
12 guarantee to every state in the Union a
13 Republican form of government and shall protect
14 each of them against invasion; and on the
15 application of the legislature or of the
16 executive when the legislature is not -- cannot
17 be convened against domestic violence.

18 So every state is guaranteed a Republican
19 form of government and not a democracy. In my
20 view, what we are called on today is to decide
21 whether authority matters and whether it matters
22 whether we're a republic or whether we're a
23 democracy. And if it does matter, then why does
24 it matter?

25 In a democracy whoever shows up gets their

1 way, a majority vote. To use the meme of the
2 well-known movie, Wag the Dog, in a democracy if
3 the State Election Board wanted to declare war
4 against Albania and the people who showed up to
5 the meeting of the State Election Board also
6 wanted to declare against Albania, then the State
7 Election Board could declare war against Albania.

8 But in a republic, authority matters. Only
9 Congress has the power to declare war. In fact,
10 authority might be the absolute essential
11 question involved in every single aspect of a
12 republic: authority between the people and the
13 government, authority between the branches of
14 government, authority of those answerable to the
15 people and those with lifetime appointments,
16 authority of those neither answerable to the
17 people nor given lifetime appointments but are
18 volunteer appointees like those on the board.

19 And so we trace the authority of the State
20 Election Board and whether it has authority over
21 constitutional officers and how they perform
22 their jobs. In doing so it's important to review
23 the history of the State Election Board.

24 The State Election Board was originally
25 created in 1959 as the State Election Commission.

1 At the time Georgia had no uniform election code.
2 The original members of the State Election
3 Commission were the governor, the Secretary of
4 State, and the Attorney General. The Secretary
5 of State acted as the chair and all
6 administrative staff for the commission was
7 provided by the Secretary of State's Office.

8 In 1964 Georgia passed its first unified
9 state election code. As a part of that
10 legislation, the State Election Board was first
11 created. The members of that original board were
12 the Secretary of State who served as the chair
13 and one member was chosen by each of the Georgia
14 house and the Georgia Senate. The two major
15 political parties were each given the privilege
16 from time to time of appointing a member of its
17 party to act as an advisor to the board.

18 In 1968 the two major parties' appointees
19 were made full members of the board. Thereafter
20 the board's composition remained completely
21 unchanged for half a century.

22 Passed in the aftermath of the contentious
23 2020 presidential election, the General Assembly
24 in SB202 created the new office of chair. The
25 chair was to be appointed by a majority vote of

1 both houses of the General Assembly and should
2 the General Assembly not be in session, the chair
3 could be appointed by the governor. The
4 Secretary of State, who had previously been the
5 chair, remained a member of the board by virtue
6 of the office, ex-officio, but not a voting
7 member of the board.

8 After the creation of the office of the
9 chair, the board operated without a chair for
10 over a year and is currently again without anyone
11 occupying the office of chair for over three
12 months. During those times of the absence of the
13 chair, the job of chair was performed by an
14 acting chair.

15 And Rebecca Sullivan was the first acting
16 chair and did a tremendous job for the board in
17 assuming a new role that had -- had never existed
18 before. I moved into the role when Rebecca left
19 the board to fulfill other public service for the
20 citizens of Georgia.

21 Upon the resignation of Judge Duffey as
22 chair on September 1st, I was again elected by my
23 colleagues to the role of acting chair and I
24 appreciate their confidence in me. Prior to the
25 2020 election and SB202, the Georgia General

1 Assem -- the Georgia Attorney General in 2005 had
2 been asked to give an official opinion with
3 regard to whether the State Election Board had
4 the power to hear complaints and cases against
5 the Secretary of State and otherwise give
6 official direction as to the relationship between
7 the Secretary of State and the State Election
8 Board.

9 In case you want to look it up, the
10 reference to the Attorney General's opinion is
11 Georgia Attorney General opinion number 2005-3.

12 And I ask a unanimous consent of the board
13 to insert a copy of the Attorney General's
14 opinion into the record.

15 **MR. LINDSEY:** Yes.

16 **MR. MASHBURN:** Dr. Johnston, okay with you?

17 **DR. JOHNSTON:** Yes.

18 **MR. MASHBURN:** Okay. Without objection, so
19 ordered.

20 At the time the Attorney General's Office
21 direction was, and I quote: There is no
22 indication in the law that the constitutional and
23 statutory authority of the Secretary of State
24 should be limited or substantively controlled by
25 a board of political appointees who are not

1 answerable to the electorate for their actions.

2 Up until today this would've been seen as a
3 mainstream orthodox republican view on
4 government. After reviewing the history of the
5 State Election Board and the powers of the
6 Secretary of State, the Attorney General went on
7 to write: Given this legal framework, then,
8 Georgia law provides for a symbiotic relationship
9 between the office of the Secretary of State and
10 the State Election Board but it does not provide
11 either entity with authority over the day-to-day
12 operations of or the ability to exercise direct
13 control over the substantive policymaking role of
14 the other.

15 SB202 made the Secretary of State a
16 nonvoting, ex-officio member of the State
17 Election Board. The General Assembly at that
18 time did not make the State Election Board
19 independent of the Secretary of State. Even
20 then, as it has been for almost 60 years, the
21 State Election Board was completely and utterly
22 reliant upon the administrative staff of the
23 Secretary of State office to complete its work.

24 Even after SB202, the State Election Board
25 had no budget. It had no staff. And, in fact,

1 didn't even have stationery. As of July 1, 2023,
2 as a result of SB222, not 202 but 222, the State
3 Election Board is beginning to start the process
4 of becoming an independent state agency. And
5 again and, as always, we begin and end in a
6 republic with a question of authority.

7 So let's look at authority of the new
8 independent board of elections. In Georgia we
9 don't have the legislative history that they do
10 up in Washington D.C. So the place that we look
11 for the purpose of legislation is the preamble to
12 the bill.

13 A preamble of SB222 states that its purpose
14 is to provide that the State Election Board shall
15 be a distinct budget unit and an independent
16 state agency attached to the office of the
17 Secretary of State for administrative purposes
18 only, to provide for an executive director of
19 said board, to provide for venue and any action
20 of said board and its members, to provide duties
21 for state executive director.

22 There is no mention in the preamble of the
23 2005 Attorney General's opinion or the intended
24 impact on the 2005 Attorney General's opinion in
25 the preamble or if it wasn't intended to impact

1 the 2005 Attorney General's opinion at all.
2 There's no direction there.

3 A portion of the actual legislation,
4 creating the independent State Board of Elections
5 states as follows, and I quote: On and after
6 July 1, 2023, the board shall be a separate and
7 distinct budget unit as defined in part one of
8 Article IV of chapter 12 of Title 45. The Budget
9 Act provided, however, that the board shall be
10 attached for administrative purposes only to the
11 office of the Secretary of State as provided for
12 in Code Section 50-4-3.

13 The board shall neither be under the
14 jurisdiction of the Secretary of State nor shall
15 it be considered a division of the office of the
16 Secretary of State. And that is the sum and
17 total of the legislation's statement about the
18 board.

19 There's nothing in the legislation about the
20 jurisdiction of the State Election Board over the
21 Secretary of State. The General Assembly did
22 provide for the first time ever staff for the
23 State Election Board and we currently have one
24 employee, the wonderful Alexandra Hardin, who
25 does such a great job for us and for you all. I

1 know that many people out there have come to rely
2 on Alex to be their daily contact for information
3 for the board. And I think y'all'll join us in
4 appreciation for a great effort.

5 The State Election Board also is budgeted
6 for an executive director who we are in the
7 process of attempting to hire and we have room in
8 the budget for one investigator. We will hire
9 that investigator after the executive director is
10 on the board since that person will work directly
11 under the executive director and have a very
12 close relationship -- working relationship with
13 them.

14 The current -- the board currently has no
15 active case against any constitutional officer.
16 And nobody that I've asked in many, many months
17 of research on this can remember that the board
18 has ever heard a case against a constitutional
19 officer. And so here we are again at the issue
20 of authority.

21 As a capital C, rock-ribbed conservative,
22 I'm always very dubious of the idea of an
23 appointed board not accountable to the people
24 unilaterally granting itself authority that was
25 not given to it by the people's representatives,

1 the General Assembly, and signed into law by the
2 governor. An amicus letter sent to us from the
3 Republican chairs of many county parties also
4 pointed out the authority of the General Assembly
5 over elections is plenary. And what that means
6 is absolute and all-encompassing.

7 Where I am on this issue was well stated in
8 the Attorney General's opinion and that is should
9 the board believe that there are additional
10 requirements that should be advanced in the area
11 of election law but which are beyond the scope of
12 its current authority, a board is authorized to
13 make legislative recommendations to the General
14 Assembly.

15 Accordingly my inclination and the motion
16 that I will make at the appropriate time is for
17 the board to officially ask for a resolution from
18 the General Assembly or it could be in an act
19 which is then sent to the governor for signature
20 from both houses of the General Assembly to state
21 explicitly whether it is the intention of the
22 General Assembly that the State Election Board
23 exercise dominion and authority over not only the
24 Secretary of State but all other constitutional
25 officers.

1 The next question that needs to be answered
2 is if the board were to hear cases against
3 constitutional officers, would that authority
4 extend only to the constitutional officer or
5 would it likewise extend to their staff and
6 employees?

7 The State Election Board frequently hears
8 complaints that an individual poll worker was
9 rude to a voter. The board tries to determine in
10 these cases whether this perceived rudeness
11 actually prevented the voter from voting or
12 otherwise suppressed the vote. If we were to
13 hear cases against individual poll workers, are
14 we also to hear cases against the Secretary of
15 State's receptionist? What about the
16 investigators that the board relies on who are
17 all sworn law-enforcement officers? The board
18 gets complaints all the time that the
19 investigator showed up with a gun and a badge.
20 But they're sworn law-enforcement officers. So
21 that's how they present. Are we to hear
22 complaints of this nature? And if we do, how
23 will that impact the relationship between the
24 investigators on whom the board is absolutely
25 completely reliant and the board? Will we be

1 creating the same adverse relationship that the
2 board is working so very hard on to repair with
3 the counties that exist currently between the
4 board and the counties? Are we creating the
5 problem that we're trying -- are we creating the
6 problem that we're trying to fix?

7 Next the board serves a very important due
8 process function to protect the rights of those
9 who are accused of an election code violation.
10 One of the due process rights is the right to be
11 represented by counsel. The board's lawyer is
12 the Attorney General. The Secretary of State,
13 the person who would be the respondent, the
14 Secretary of State's lawyer is the Attorney
15 General. The Attorney General cannot
16 simultaneously represent the State Election Board
17 in prosecuting a case against the Secretary of
18 State and defend the case on behalf of the
19 Secretary of State against the State Election
20 Board.

21 And the way the conflict laws work, the
22 Attorney General doesn't get to pick and choose
23 which of the two clients to represent. The
24 Attorney General would not be permitted to
25 represent either party. So the taxpayers of

1 Georgia are going to be called on to foot the
2 bill for two sets of lawyers in every single
3 case. Not just one case, just as -- such as
4 Mr. Rossi's case but upon scores, upon scores,
5 upon scores of cases.

6 A minor question that everybody seems not to
7 think is a big deal at this time, but in my
8 opinion will be a gigantic deal the very first
9 time the board votes to dismiss a case against
10 the Secretary of State or otherwise votes to
11 exonerate the Secretary of State is how can the
12 board be expected to fairly investigate its own
13 members? Of course they'll let the Secretary of
14 State go. The Secretary of State is a member of
15 the board. How can the board investigate itself?

16 We had an amicus letter stating this was not
17 a great concern, but now I'm afraid that it will
18 be.

19 Finally, in the event that the board does
20 vote to grant itself the power to investigate
21 constitutional officers and a subpoena turns out
22 to be necessary, who would represent the board?
23 Who would represent the constitutional officer?

24 **UNIDENTIFIED SPEAKER:** (indiscernible)

25 **MR. MASHBURN:** It's not -- speaking very

1 frankly and candidly in all sincerity when
2 Republicans are fighting so hard in Washington
3 D.C. against the administrative state and an ever
4 expanding role by unelected bureaucrats who are
5 not answerable to the people, I don't see it in
6 creating that system here in Georgia.

7 So for that reason, I will vote against
8 Mr. Lindsey's motion but would present a
9 countermotion at the appropriate time after
10 Mr. Lindsey's motion is voted on to ask the
11 General Assembly for direction.

12 And then I have other comments, but I think
13 we'll move on. Oh, I do want to say, there --
14 from a lot of e-mails that I've received and the
15 board has received, there is an overwhelming and
16 mistakeable trend in these e-mails that the
17 commenters desire that the State Election Board
18 embark on an open-ended Miller(ph) style
19 investigation of the Secretary of State. And I
20 just don't see any authority in the General
21 Assembly for a broad-ranging open-ended
22 investigation. There's no staff for that,
23 there's no budget for that, there's no -- there's
24 no personnel to do that. So just to go ahead and
25 address something that we've rece -- that I've

1 received maybe a hundred e-mails asking for.

2 So with that, unless there are other board
3 members who would like to revisit the remarks and
4 make additional remarks.

5 Dr. Johnston would like to make additional
6 remarks. So the floor is Dr. Johnston's.

7 **DR. JOHNSTON:** Thank you, Chairman. Thank
8 you for all of these remarks. Three points. The
9 current code already provides for statutes of
10 violations against the Secretary of State. If
11 those statutes are on the books and then who
12 presents the violations for those statutes? It
13 names the Secretary of State explicitly. So are
14 they on the books but nobody can file a complaint
15 against a violation of that statute? So that's
16 one point.

17 The other point is the Inspector General can
18 oversee the Secretary of State, but the Inspector
19 General is not a constitutional officer.

20 And three, I would entertain a motion to
21 make this recommendation to the General Assembly
22 for their action.

23 **MR. MASHBURN:** Okay. Dr. Johnston yields
24 the floor.

25 Mr. Lindsey, you have the floor if you wish.

1 **MR. LINDSEY:** No, I think -- I think we've
2 covered it.

3 **MR. MASHBURN:** Okay. Member Ghazal, any
4 further comments?

5 **MS. GHAZAL:** (shaking head)

6 **MR. MASHBURN:** Okay. If there's no further
7 discussion, we have a motion before the board to
8 have jurisdiction over the Secretary of State to
9 hear complaints against the Secretary of State.
10 That motion has been seconded. It has been
11 thoroughly discussed and we're ready to vote.
12 We'll vote again in reverse seniority. So
13 Dr. Johnston gets to go again first.

14 **DR. JOHNSTON:** I would vote in favor.

15 **MR. MASHBURN:** So Dr. Johnston votes aye.

16 **DR. JOHNSTON:** Aye.

17 **MR. MASHBURN:** Mr. Lindsey?

18 **MR. LINDSEY:** Aye.

19 **MR. MASHBURN:** Mr. Lindsey votes aye.
20 Miss Ghazal?

21 **MS. GHAZAL:** Nay.

22 **MR. MASHBURN:** Ms. Ghazal votes nay. And I
23 vote nay. That motion fails for lack of
24 majority.

25 There is now a motion that Dr. Johnston, I

1 believe, might have joined me in.

2 Or you can make it -- you can make the
3 motion or you can join my motion to make -- use
4 our enumerated power to request from the General
5 Assembly that they state what -- clearly state
6 what their intention is for the board. Does that
7 fairly state where you and I are both kind of
8 heading?

9 **DR. JOHNSTON:** So moved.

10 **MR. MASHBURN:** Okay. There's a motion. I
11 will second that motion. Any discussion on that
12 motion? Okay, if there's no further discussion
13 on that motion, we're ready to vote. We'll go in
14 reverse.

15 **DR. JOHNSTON:** Aye.

16 **MR. MASHBURN:** Dr. Johnston votes aye.
17 Mr. Lindsey?

18 **MR. LINDSEY:** Aye.

19 **MR. MASHBURN:** Mr. Lindsey votes aye.

20 Ms. Ghazal?

21 **MS. GHAZAL:** Aye.

22 **MR. MASHBURN:** Ms. Ghazal votes aye. And I
23 vote aye. So that motion will be carried. Okay.

24 We're now ready to move to the part of the
25 board's agenda with regard to -- what time do we

1 have? It is 2:12.

2 **DR. JOHNSTON:** Can we (inaudible)?

3 **MR. MASHBURN:** Hm?

4 **DR. JOHNSTON:** Can we (indiscernible) other
5 new business?

6 **New Business**

7 **MR. MASHBURN:** Oh, yeah. Yeah, yeah, yeah.

8 Ladies and gentlemen, can I have order for a
9 second. We're in -- we're in the part of the
10 agenda that Mr. Lindsey created, and I think is a
11 tremendously valuable tool for the board, of new
12 business. And so Dr. Johnston has some new
13 business for the board that she would like to
14 introduce.

15 **DR. JOHNSTON:** New business.

16 **MR. MASHBURN:** The floor belongs to
17 Dr. Johnston.

18 **DR. JOHNSTON:** Thank you. I would make a
19 motion that the board would consider a
20 recommendation for the General Assembly to
21 consider the end of -- or to consider having
22 excuse only or removing no-excuse absentee
23 voting. And this is my proposal: Whereas,
24 absentee voting in Georgia has led to numerous
25 complaints from the public and the numerous

1 reported errors are undermining public faith in
2 the integrity of elections in Georgia; whereas,
3 the centralization of absentee balloting and
4 reporting results from the absentee ballots
5 removes the tabulation of those votes from the
6 local precincts; whereas, the State Election
7 Board has received numerous complaints involving
8 defects in the recording of absentee ballots
9 involving tens of thousands of votes in some
10 elections and often a number of sufficient --
11 number sufficient to call into question the
12 results of election results; whereas, the Supreme
13 Court has held there is no constitutional right
14 to vote absentee and Georgia for many years was
15 able to conduct elections with no-excuse absentee
16 voting -- without no-excuse absentee voting;
17 whereas, there are many days authorized by the
18 election code for early voting and electors who
19 are out of the country may vote under federally
20 mandated means of voting; and whereas, Georgia
21 has led limited experience with no excuse -- has
22 had limited no-excuse absentee voting.

23 And Georgia law, prior to 2010, allowed a
24 reasonable amount of absentee voting but limited
25 to an elector who is absent from his or her

1 precinct during the time of the primary or
2 election he or she decides to vote in or perform
3 any of the official acts or duties set forth in
4 this chapter in connection with the primary
5 election he or she desires to vote in because of
6 physical disability or because of being required
7 to give constant care to someone who is
8 physically disabled; will be unable to be present
9 at the polls on the day of such primary or
10 election because the election or primary falls on
11 a religious holiday observed by such an elector;
12 will be unable to be present at the polls on the
13 day of such a primary election; was required to
14 remain on duty in his or her place of employment
15 for the protection or the health, life, or safety
16 of the public during the entire time the polls
17 are open when such place of employment is within
18 the precinct in which the voter resides or was 75
19 years of age or older; whereas, no-excuse
20 absentee voting was helpful during the recent
21 pandemic but even during that period, voting
22 appeared to be chaotic and untrustworthy.

23 Now, therefore be resolved to authorize
24 Dr. Johnston on behalf of the State Election
25 Board to work with the General Assembly to

1 restore Georgia law to allow absentee voting only
2 for the reasons embodied in this section. Thank
3 you.

4 **MR. MASHBURN:** Thank you, Dr. Johnston. I
5 will move that that be published on the board's
6 website so that it be considered for the public
7 and it be accepted as a matter of new -- of new
8 business at this meeting and be open for public
9 comment up until the next meeting where we will
10 treat it as old business and address it. And so
11 that is my motion. If anyone would like to ...

12 **MR. LINDSEY:** So we'll address the merits of
13 it at the next meeting?

14 **MR. MASHBURN:** Correct. We'll publish it
15 now for public comment and address the merits of
16 it at the next meeting; correct.

17 **MR. LINDSEY:** Thank you.

18 **MR. MASHBURN:** I still need a second though.

19 **MS. GHAZAL:** Second.

20 **MR. MASHBURN:** All right, the motion and a
21 second. Any discussion? Okay. Ready to vote.
22 All those in favor would say aye.

23 **THE BOARD MEMBERS:** Aye.

24 **MR. MASHBURN:** All those opposed would say
25 no. Motion carries. Okay.

1 Now, we're approaching 2:17. We're in the
2 cases of -- we're now in the cases of pulled
3 cases recommended for letters of instruction.
4 We're going to -- excuse me -- we're going to
5 take SEB 2022-217, Cobb County, records issue,
6 item number 34 in your tabbed binders. We're
7 going to pick up tab number 34, 2022-217.

8 Then the next case after this one will be
9 DeKalb County 106. So y'all can go ahead and
10 start getting -- getting ready.

11 Sara Koth, chief investigator, the floor is
12 yours. (indiscernible)

13 **MS. KOTH:** (inaudible)

14 **MR. MASHBURN:** Be helpful if the chair would
15 do his job. Sorry about that. Okay, you're
16 ready to go.

17 **Cases Recommended for Letters of Instruction**

18 **MS. KOTH:** SEB 2022-217, Cobb County,
19 records issue. Cobb County elections office --
20 the complaint was that Cobb County elections
21 office unlawfully retrieved boxes of election
22 records from the January 2020 runoff election
23 that were under seal by the Cobb County Superior
24 Court, a potential violation of O.C.G.A.
25 21-2-500.

1 The second complaint was that Erica
2 Hamilton, while serving as the elections
3 supervisor of the DeKalb County Board of
4 Elections and Registration misappropriated DeKalb
5 County funds, a potential violation of the
6 O.C.G.A. 23-2-51.

7 The complainant advised that he observed a
8 Cobb County elections office employee
9 transporting approximately six boxes that were
10 sealed and labeled. The investigator had
11 requested documents pertaining to a different
12 complaint filed by this complainant, SEB
13 2020-077.

14 So what happened was the employee grabbed
15 boxes from January of 2021 instead of the
16 June 2020 boxes which was requested. There were
17 complaints for both boxes but only the 2020
18 complaint had the court order. The confusion was
19 a complainant happened to be at the elections
20 office when the investigator had requested boxes.
21 It was determined later that the wrong boxes were
22 pulled. However, they were not opened.

23 The county self-reported when speaking to
24 the investigator and they reiterated a reminder
25 to double-check the process when dealing with a

1 court order to all pertinent staff.

2 Complaint 2 was referred to the DeKalb
3 County District Attorney's Office regarding the
4 allegation of misappropriated county funds.

5 So potential violations for Cobb County:
6 There is sufficient evidence to show that Cobb
7 County Board of Elections and Registration
8 violated O.C.G.A. 21-2-500 when they removed
9 records from their designated location without
10 the approval from the court.

11 That's it.

12 **MR. MASHBURN:** Questions from the board for
13 the investigations? Questions from the board for
14 the investigator?

15 Okay, is anybody here on behalf of the
16 respondent? The respondent Cobb County is here.
17 You should be good to go.

18 **MS. FALL:** Good afternoon, Board. My name
19 is Tate Fall. I'm the brand-new elections
20 director for Cobb County. This is my third week.

21 **MR. MASHBURN:** Welcome, welcome.

22 **MS. FALL:** So you're not giving me anything
23 easy. I appreciate that.

24 **MR. MASHBURN:** Welcome.

25 **MS. FALL:** So I can't speak to when the

1 complaint was -- when it occurred since I wasn't
2 there. But I'd also like to point out that our
3 current board, none of the board members were on
4 the board at that time. So there's not really
5 anyone that can speak to this incident. I do
6 have the e-mail traffic from our former director
7 where she did explain kind of what had happened.

8 But I had maybe two questions probably for
9 the investigator or for y'all. First, I want to
10 make sure -- are we able to separate the
11 complaint that's in regards to Erica Hamilton for
12 DeKalb County? I just want to make sure because
13 when we got our summons, they were together. And
14 I just wanted to make sure that that will remain
15 separated since she wasn't employed at Cobb
16 during the time of --

17 **MR. MASHBURN:** That's -- I think board
18 member Ghazal would like the floor on that.
19 Yeah?

20 **MS. GHAZAL:** No, I believe that the finding
21 in that case was that we don't have jurisdiction
22 over that particular complainant.

23 **MS. FALL:** Great.

24 **MS. GHAZAL:** Isn't that correct?

25 **MS. KOTH:** So we referred that to the

1 District Attorney's Office.

2 **MS. GHAZAL:** Right. Correct.

3 **MS. FALL:** Okay. I just wanted to make
4 sure. I know she was employed at our office
5 so -- that was in a different time.

6 **MR. MASHBURN:** So you won your -- you won
7 your first motion.

8 **MS. FALL:** All right. The second question I
9 had was did anyone speak to the clerk of the
10 superior court in the course of the
11 investigation?

12 **MS. KOTH:** Yes.

13 **MS. FALL:** Okay. And did they have a
14 response as to why they maybe allowed the
15 incorrect records to be released into our
16 custody?

17 **MS. KOTH:** That, I -- let me double-check.

18 **MS. FALL:** Okay. Right.

19 **MS. KOTH:** I believe what the mistake was
20 that we -- there were two different sets of boxes
21 and one of them was released and they were filed
22 around the same time. So they grabbed the wrong
23 boxes.

24 **MS. FALL:** Understood.

25 **MS. KOTH:** So that was -- it wasn't they

1 released the wrong ones, they -- the clerk
2 grabbed the wrong ones.

3 MS. FALL: So the clerk grabbed the wrong
4 boxes.

5 MS. KOTH: Yes.

6 MS. FALL: Okay.

7 MS. KOTH: So they grabbed the ones from '21
8 when it was June of 2020 that had the unseal.

9 MS. FALL: Understood. So I know that there
10 has been a breakdown in communication with our
11 office and the clerk of the superior court in the
12 past. So that's one of my focus areas in my next
13 few weeks, to build that relationship. But I did
14 want to make sure that it was pointed that --
15 that they were the ones that released those boxes
16 into our custody.

17 And then I just had two requests if I might.
18 I'm sure I will be back here a lot over the next
19 couple of months with other investigations that
20 are ongoing. I was hoping there is a way that we
21 could get a docket of all of the open
22 investigations on our office and the status of
23 those because even when we got the summons, I had
24 no idea. I just went through to Janine's e-mails
25 and was able to find.

1 And on kind of the same vein, if we could
2 get the evidence that will be presented ahead of
3 time because I could only find what was in
4 Janine's e-mails. Otherwise I wouldn't have been
5 able to even know kind of what the situation was
6 before today.

7 So two requests for -- from one of your
8 newbies. I know you guys are really busy, but I
9 would really appreciate it if that's something
10 that we could have.

11 **MR. MASHBURN:** I think Sara is pretty
12 accommodating and will help you out as much as
13 they can.

14 **MS. FALL:** I'll give you till after the
15 holidays.

16 **MR. MASHBURN:** Okay, questions by the board
17 for Cobb County? Okay, is --

18 **MS. FALL:** Thank you.

19 **MR. MASHBURN:** Is there any motion that a
20 member of the board would like to make? I think
21 Sara -- I think you pulled this one, right? No?
22 Dr. Johnston pulled this one.

23 **DR. JOHNSTON:** (inaudible)

24 **MR. MASHBURN:** Who pulled this one then?

25 **DR. JOHNSTON:** Me? Oh. I move that a

1 letter of instruction be sent.

2 **MR. MASHBURN:** Okay, there's been a motion
3 for a letter of instruction. Is there a second?

4 **MS. GHAZAL:** (indicating)

5 **MR. MASHBURN:** There's been a motion and a
6 second that a letter of instruction be issued.
7 Let me turn my -- I'm going to hit the
8 microphone, sorry about that.

9 This is under the cases recommended for
10 letter of instruction. So that matches the
11 recommendation. So there's been a motion for a
12 letter of instruction to issue and a second.

13 Is there any discussion? Hearing no
14 discussion, we're ready to vote. All those who
15 would vote in favor would say aye.

16 **THE BOARD MEMBERS:** Aye.

17 **MR. MASHBURN:** All those opposed would say
18 no. Motion carries.

19 Director Kirk, you might be here for SEB
20 2021-102. Maybe? I think Bartow County had a
21 part in that maybe. You're just here for the --
22 you're just here for fun, to keep informed of all
23 the -- of all the events, okay.

24 In case -- that had been continued because
25 there was a notice issue to one of the

1 respondents. So if you were waiting for that, I
2 wanted to be able to release you and let you go.
3 But we welcome you. You're always a pleasure to
4 have -- have him -- have with us. So grateful to
5 have you with us.

6 So the next that we have up is DeKalb
7 County, SEB 2022-106, tab number 33 in your -- in
8 your books.

9 **DR. JOHNSTON:** (inaudible) Michael Barnes
10 (inaudible)?

11 **MR. MASHBURN:** No, he -- he's -- they just
12 got a message a second ago. He won't be able to
13 be here. So we're going to have to go forward
14 without him.

15 So inspector -- chief inspector Koth, the
16 floor is yours.

17 Am I right everybody? 2022-106? Right?

18 **MS. KOTH:** Yes.

19 **MR. MASHBURN:** Okay. Inspector Koth, the
20 floor is yours.

21 **MS. KOTH:** Okay.

22 **MR. MASHBURN:** Inspect -- not inspector,
23 member Ghazal? Not even member Ghazal. Dr. --
24 member -- member Dr. Johnston is recognized. You
25 have the floor.

1 **DR. JOHNSTON:** In reviewing this case with
2 the kindness of the investigators, the questions
3 that I had were tech -- very technical in nature.
4 And they, I believe, agreed that this should be
5 presented when Mr. Barnes is able to answer those
6 questions. So I would recommend that -- I would
7 make a motion that we continue this case.

8 **MR. MASHBURN:** Okay. There's a motion to
9 continue. Is there a second?

10 **MR. LINDSEY:** Second.

11 **MR. MASHBURN:** There's been a motion and a
12 second. Any discussion? Hearing no discussion,
13 we're ready to vote. All those in favor of
14 continuing SEB 2022-106 would say aye.

15 **THE BOARD MEMBERS:** Aye.

16 **MR. MASHBURN:** All those opposed would say
17 no. It's going to be continued. I do note that
18 DeKalb County was here. I appreciate y'all's
19 patience being with us all day.

20 **UNIDENTIFIED SPEAKER:** That's our only case,
21 Mr. Chairman. May we be excused?

22 **MR. MASHBURN:** And I -- you are correct and
23 thank you for asking to be excused. And you are
24 excused. Thank you for y'all's attendance and
25 appreciate DeKalb County being here today with

1 us.

2 Okay. On my record that completes cases
3 recommended for a letter of instruction. And we
4 will move into cases recommended for referral to
5 the Attorney General's Office.

6 Cases Recommended for Referral to the
7 Attorney General's Office

8 MR. MASHBURN: SEB 2019-038, City of
9 Arlington, number 36 in your folders.

10 MS. KOTH: That was continued by the
11 attorney.

12 MR. MASHBURN: That was continued, okay.

13 DR. JOHNSTON: (indiscernible)

14 MR. MASHBURN: Which one?

15 DR. JOHNSTON: (indiscernible)

16 MR. MASHBURN: Is it ... 28?

17 MR. LINDSEY: Can we take (inaudible)?

18 MR. MASHBURN: Yeah. There's been a request
19 for a unanimous consent to take a short break.
20 And so we will be adjourned and re -- we'll be
21 not adjourned, we'll be in recess for 15 minutes.

22 (Break taken)

23 MR. MASHBURN: Okay. We're going to
24 reconvene, come out of recess. And we're ready
25 to pick up where we left off at cases recommended

1 for referrals to the Attorney General's Office.

2 Tab number 37, SEB 2020-107, Chatham County.

3 Inspectors from the Secretary of State's
4 Office, the floor is yours.

5 **MR. BRUNSON:** So this particular complaint
6 ...

7 **MR. MASHBURN:** Helps if the chair does his
8 job.

9 **MR. BRUNSON:** So this case involves a couple
10 of allegations that involve a number of
11 individuals. The first allegation, Renee
12 Schmidt(ph) alleged a U.S. postal worker stole
13 two absentee ballots out of the mailbox on
14 October 3, 2020. It was the first allegation.

15 The second allegation is Inger Bostic(ph)
16 reported that Chatham County voters -- Mark
17 Hiott, Julia Garcia, and Hattie Mobley(ph) --
18 voted twice during the November 3, 2020, general
19 election.

20 So we'll start with the first allegation.
21 Peter and Renee Schmidt's absentee ballots were
22 delivered on October 1, 2020. However, they were
23 out of town and the ballots remained in the
24 mailbox. The ballots were removed by a different
25 mail carrier on October 3, 2020. They knew the

1 ballots had been delivered because they had
2 subscribed to Informed Delivery. The same
3 ballots were later redelivered on October 7,
4 2020, and were sealed and had not been tampered
5 with.

6 The Schmidt's have surveillance footage
7 which showed the female mail carrier remove the
8 absentee ballots on October 3, 2020. In the
9 footage it appeared the mail carrier simply
10 removed the ballots out of the mailbox as if it
11 was believed to be outgoing mail.

12 Mr. and Mrs. Schmidt do not have a
13 traditional mailbox and instead have a basket
14 with no flag to indicate outgoing mail.
15 Ultimately Mr. and Mrs. Schmidt were able to vote
16 their absentee ballots without any further
17 incidents. For this particular allegation, there
18 is no evidence to support a violation of Georgia
19 election code.

20 I can continue. Any questions on the first
21 allegation?

22 **MR. MASHBURN:** Any questions from the board
23 on the first allegation?

24 **MS. GHAZAL:** Yes.

25 **MR. MASHBURN:** Okay, Sara Ghazal. Member

1 Ghazal.

2 **MS. GHAZAL:** Was there any indication in the
3 investigation file why voter credit was not in --
4 at the time it was E-Net for Mr. Hiott when he
5 went on election day? If he had already
6 submitted a ballot, that credit should've shown
7 up --

8 **MR. BRUNSON:** So the --

9 **MS. GHAZAL:** -- in -- in the file.

10 **MR. BRUNSON:** I was going to let the -- the
11 first allegation was the mail.

12 **MS. GHAZAL:** Oh, sorry. I was looking at
13 the allegation number --

14 **MR. BRUNSON:** Yeah, I was going kind of
15 allegation by allegation.

16 **MS. GHAZAL:** Sorry.

17 **MR. MASHBURN:** Protocol foul.

18 **MS. GHAZAL:** Yes. Apology. I got ahead of
19 you. I have no questions on number one.

20 **MR. MASHBURN:** Dr. Johnston.

21 **DR. JOHNSTON:** Did Mr. Schmidt notify
22 U.S. -- the post office immediately that their --
23 they saw their ballot had been removed by the
24 postal worker from their mailbox?

25 **MR. BRUNSON:** You know we didn't ask them

1 that question. We did follow up with them later,
2 asking him was that the only mail. We found that
3 it was the only mail in his -- in his box at that
4 time. He didn't -- he believed that it was the
5 fact that the mail was left in the box for two
6 days and that the mail carrier simply, oh,
7 here's -- boom, and then took it back out.
8 That's what he believes. I think it was his --
9 his wife that filed the complaint.

10 **DR. JOHNSTON:** Okay. So -- so there was no
11 other mail, just absentee ballots --

12 **MR. BRUNSON:** Yes.

13 **DR. JOHNSTON:** -- in the mailbox and those
14 were the only things removed by the postal --

15 **MR. BRUNSON:** By the mail carrier.

16 **DR. JOHNSTON:** -- by the mail carrier.

17 **MR. BRUNSON:** Yes.

18 **DR. JOHNSTON:** Okay. And were you able to
19 find out if the election office uses scanning
20 capabilities of all their election mail,
21 outgoing/incoming?

22 **MR. BRUNSON:** No. We weren't able to -- to
23 get the answer to that.

24 **DR. JOHNSTON:** I'd love to know that. And
25 actually that would be -- I'll consider a motion

1 to propose that all election mail be scanned and
2 images made available to the public. But
3 that's -- that's another -- another issue.

4 **MR. BRUNSON:** Okay.

5 **DR. JOHNSTON:** That's the only question I
6 had.

7 **MR. BRUNSON:** Okay. Okay, so for allegation
8 two --

9 **MR. MASHBURN:** Give me a second. We're
10 ready for allegation two, okay.

11 **MR. BRUNSON:** Okay.

12 **MR. MASHBURN:** Please proceed.

13 **MR. BRUNSON:** All right. So for allegation
14 two it was confirmed that voters Mark Hiott and
15 Julie Garcia voted twice during the November 3,
16 2020, general election.

17 Mr. Hiott admitted to voting both during the
18 advanced voting period and on election day.

19 Mr. Hiott said he only voted a second time after
20 his wife, Connie, discovered that his first vote
21 had not been registered. He went to the polling
22 precinct and the worker checked his system and it
23 showed he had not voted. The worker told him he
24 needed to vote. So he did as instructed. He
25 indicated that his intention was not to commit

1 voter fraud. He only voted a second time because
2 he thought his first vote was not accepted.

3 During the follow-up interview, he clarified
4 that after she checked the computer -- that's his
5 wife -- she spoke with her poll manager who
6 advised her to contact the Chatham County
7 election office for further assistance.

8 Mr. Hiott -- Mrs. Hiott did so but claimed
9 the individual she spoke with advised that her
10 husband should go to the polling location on
11 Wheaton Street where they could check to see if
12 her husband had received credit for voting.

13 Mrs. Hiott said her husband went to the
14 Wheaton Street polling location. He voted after
15 being told to do so by a poll worker. Mrs. Hiott
16 did not recall the name of the individual she
17 spoke with from the Chatham County election
18 office.

19 Mr. Hiott explained he presented his
20 driver's license, asked the poll worker to check
21 and verify if he had voted or not. He claimed
22 that the poll worker told him he had not yet
23 voted. So he, in turn, asked what he was
24 supposed to do. Mr. Hiott said at the direction
25 of the poll worker he voted. The Wheaton Street

1 polling location was identified as the River
2 Pointe Community Center.

3 Investigator Blanchard followed up with the
4 Chatham County election supervisor, Billy Wooten,
5 to identify the poll worker Mr. Hiott spoke with
6 on election day. Unfortunately the 24-month
7 retention period had passed and the poll worker
8 information was no longer available.

9 Now, in doing something further review of
10 the process, it appears that when he voted
11 absentee in person, someone should have entered
12 that information into E-Net, and that would've
13 prevented him from being able to vote that second
14 time.

15 So we did look into that and that would
16 potentially be a violation on Chatham County's
17 part of SEB rule 183-1-12.11(2)(A) which states:
18 The poll officer shall verify the identity of the
19 person and that person is a registered voter of
20 the precinct and, if so, shall approve the voter
21 certificate and enter an appropriate designation
22 on the electors list for the precinct reflecting
23 that the voter has voted in the primary,
24 election, or runoff being conducted. The voter's
25 name shall then be entered on the appropriate

1 numbered list of voters.

2 Do you want me to pause after each person or
3 just continue to go through the other two
4 individuals that were accused of double voting?

5 **MS. GHAZAL:** If you don't mind, I'd like to
6 --

7 **MR. BRUNSON:** Okay.

8 **MS. GHAZAL:** -- address this because I'm not
9 sure I will follow -- I will remember all of the
10 details. And at the appropriate time, I would
11 like to make a motion that we initiate a
12 complaint against Chatham County on this basis
13 because they -- they have not received notice
14 because they're not a respondent in this case.

15 I would like a case opened in reference to
16 this because it's very, very serious if a county
17 fails to appropriately document when voters have
18 cast a ballot. And it -- it gives them the
19 opportunity to -- to cast two votes in the same
20 election. So ...

21 **MR. MASHBURN:** I'll treat that as a
22 unanimous consent request. Is there an
23 objection? Without objection, so ordered.

24 **MR. BRUNSON:** Okay.

25 **MR. MASHBURN:** Thank you.

1 **MR. BRUNSON:** All right. So we're going to
2 the second --

3 **DR. JOHNSTON:** I have a question.

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

5 **DR. JOHNSTON:** So I would -- would also
6 point out that when one is voting absentee by
7 mail, one has to be -- rely -- has to rely on the
8 Postal Service also. So when you decide to vote
9 by mail, you're subject to how many days it takes
10 that ballot to be returned to the election
11 office.

12 And if scanning were instituted of incoming
13 mail, you would have a document of the evidence
14 of the day that ballot was returned to the
15 office, besides relying on the election office to
16 document that also.

17 And also one has to rely on My Voter Page
18 being accurate for people to refer to because
19 voters refer to My Voter Page to see if their
20 ballot, indeed, was received and accepted. And
21 if it's not, they could become anxious every day
22 thereafter. And some are led to voting a second
23 time, innocently thinking it was lost in the mail
24 or stolen or whatever. And they commit a felony.
25 They double-vote. So this -- it's a

1 multiple-step potential problem.

2 **MS. GHAZAL:** Can I clarify? I had
3 understood that this was an absentee in person.
4 This was an advanced in-person vote.

5 **DR. JOHNSTON:** Oh.

6 **MR. BRUNSON:** Yes, it was.

7 **DR. JOHNSTON:** Oh, sorry. I thought it was
8 a double vote.

9 **MR. BRUNSON:** The first one. The second
10 two, though, are.

11 **DR. JOHNSTON:** Are the (indiscernible).

12 **MR. BRUNSON:** Yes. The first one was
13 absentee --

14 **DR. JOHNSTON:** Apply those comments to the
15 second two then.

16 **MR. MASHBURN:** Other questions for the
17 investigator from the board? If not, I'm ready
18 to hear a motion on one or both or all.

19 **UNIDENTIFIED SPEAKER:** Here. Mr. Hiott is
20 here (indiscernible).

21 **MR. HIOTT:** I'm here but all that
22 (indiscernible) just like it happened.

23 **MR. MASHBURN:** Mr. Hiott, press the button
24 on the little metal thing in front of you.

25 **MR. HIOTT:** (inaudible). Is that right?

1 **MR. MASHBURN:** It says talk or speak or --
2 there you go. I see you. Okay.

3 **MR. HIOTT:** Yeah. The description was
4 pretty accurate. Actually I voted -- like he
5 said, my wife was a poll worker. So I voted in
6 advance. And then after the election the next
7 Tuesday, I was at home. My wife, a poll worker,
8 called and said, you know, my vote had not
9 counted. So I said, What do I do?

10 And so she got with the poll worker
11 supervisor and said I need to go down to Wheaton
12 Street where I normally vote. So I did and I
13 voted. She looked at my I.D. She said -- I
14 said, What do I do? She said, Well, you need to
15 vote. So I voted. So I went to the scanner and
16 I just wanted to make sure how you put the vote
17 in, you know, upside down or whatever. She said
18 it doesn't matter. As long as it makes the beep
19 and you see the little number change, your vote
20 has been registered. So I did that.

21 So I go home. About three hours later
22 Connie calls me from the poll, says, When are you
23 going to vote? I said I voted three hours ago.
24 She said, It's not in the system. I said, Well,
25 how can that be? So I voted twice and no

1 recorded -- no recorded vote.

2 So I called the Secretary of State's Office,
3 left a message. I called Buddy Carter's office.
4 I didn't leave a message there. And I told
5 Connie, I said, What we going to do? She said,
6 I'm going to call the -- the head office -- poll
7 office and let them decide.

8 So she did. They said they wanted to
9 investigate. So about 5:00 I called and I said,
10 I haven't heard anything. I want to talk to
11 them. I'll be glad to call them or whatever.
12 She said, No, they're on -- they're going to
13 investigate.

14 So the election happened at seven. And far
15 as I knew, I didn't have a vote. So the next day
16 at 10:00, she gets a text and it's from the board
17 office, saying that they were going to accept the
18 Wheaton Street vote, which I didn't understand
19 how you can add a vote after the election, or
20 maybe it was before. I never heard.

21 So far as I'm concerned, I didn't really get
22 a vote. I don't know. So that's -- it's either
23 the machine or something. I don't -- I don't
24 know.

25 **MS. GHAZAL:** Mr. Chairman?

1 **MR. HIOTT:** It was def -- it was definitely
2 -- each one when I scanned it, it made the little
3 noise and you could see the number flip over.
4 And I never -- I never got a vote.

5 **MR. MASHBURN:** Thank you, Mr. Hiott.
6 Member Ghazal?

7 **MS. GHAZAL:** Mr. Hiott, I'm very sorry that
8 some of the people assisting you did not give you
9 appropriate information. When you scan your
10 ballot in the scanner, then your vote is added to
11 the totals. So in fact, it -- from your
12 description, you had -- not just one vote but two
13 votes that you cast were counted and included in
14 the vote totals.

15 Getting credit in the system for having cast
16 your ballot is something that sometimes takes
17 time. It should not take time, but it -- it --
18 the system takes time to catch up. Particularly
19 on election day. Because in the past -- in the
20 past, election day votes were static in -- in
21 the -- the poll pads.

22 In other words, that information would not
23 get uploaded into the central system until
24 afterwards. It has been updated now. We are
25 looking at a new system where votes should be

1 recorded almost simultaneously. They should have
2 during your early vote as well. And that is why
3 we're going to initiate an investigation into the
4 county to see why it did not get properly
5 recorded.

6 But if any voter is casting a vote in
7 person, they scan it in there, the scanner
8 records it, that vote has been cast and has been
9 counted. It may take time for that to show up on
10 MVP, on -- on the rolls because some counties use
11 a different interface that takes time to load
12 that information up. And unfortunately you were
13 not given the appropriate instructions in this
14 case. And that's where --

15 **MR. HIOTT:** The only question I have is we
16 voted at the same time and --

17 **MR. MASHBURN:** Mr. Hiott, I'm going to ask
18 you a favor. If you'll hold the microphone a
19 little closer, there's people watching on the
20 Internet that want to -- want to hear you.

21 **MR. HIOTT:** We both -- we both voted at the
22 same time in advance voting. I don't know why
23 mine would not show up after -- you know, after
24 five days.

25 **MS. GHAZAL:** And that's why -- that's why I

1 requested that we initiate an investigation into
2 that as well.

3 **MR. HIOTT:** Gotcha.

4 **MS. GHAZAL:** But I just wanted to assure you
5 that your vote counted not just once but twice.

6 **MR. MASHBURN:** Okay. What's the pleasure of
7 the board? We have a -- we've already approved
8 by unanimous consent opening an investigation
9 into Chatham. But what's the pleasure of the
10 board with regard to allegation one?

11 **DR. JOHNSTON:** When you put -- when you put
12 your ballot into the ballot box, you have to
13 trust that it's counted. Getting credit for it
14 in the electronic system or on your My Voter Page
15 is really a different step. And there was a flaw
16 in the system that -- that required an add -- one
17 additional step to send that credit for voting to
18 the main server that -- that connects or syncs
19 with My Voter Page.

20 So when you cast a ballot and you feed it
21 into the ballot box, that's -- you have to trust
22 that you have voted. And you cannot vote a
23 second time if you don't see credit for it. If
24 it's not on the webpage or in My Voter Page or
25 even in somebody checking on your behalf to see

1 if the credit was given. So be careful. Do not
2 vote twice.

3 **MR. MASHBURN:** Okay. What's the pleasure of
4 the board with regard to allegation one? That --
5 there was a recommendation of no violation. Do
6 we accept that or reject that or what's --

7 **MR. LINDSEY:** Move to accept.

8 **MR. MASHBURN:** Move to accept the
9 recommendation of no violation with regard to
10 allegation one. Is there a second?

11 **MS. GHAZAL:** Second.

12 **MR. MASHBURN:** Any discussion? Hearing no
13 discussion, all those in favor would say aye.
14 All those in -- all those in favor would say aye.

15 **THE BOARD MEMBERS:** Aye.

16 **MR. MASHBURN:** All those opposed would say
17 nay. Okay. So there's no violation is adopted
18 on allegation one.

19 Is Julia Garcia or Hattie Mobley here?
20 Julia Garcia, Hattie --

21 **MS. HARDIN:** They forwarded (indiscernible)
22 that were forwarded to your (indiscernible).

23 **MR. MASHBURN:** Aw, yes. Aw, yes.

24 **MS. HARDIN:** (indiscernible) they were --
25 they were unavailable (indiscernible).

1 **MR. MASHBURN:** Aw, yes. I recall. Thank
2 you for refreshing my --

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

4 **MR. MASHBURN:** Thank you for refreshing my
5 recollection on that. Okay. What's the pleasure
6 of the board with regard to allegation two?
7 There's three -- three respondents. What's the
8 pleasure of the board?

9 **DR. JOHNSTON:** I was (indiscernible) --

10 **MR. LINDSEY:** Take these separately.

11 **MR. MASHBURN:** As a unanimous consent
12 request to take them separately. Any objection?
13 Without objection, so ordered. So we'll do
14 Mr. Hiott first.

15 **MR. LINDSEY:** I would move to dismiss with a
16 letter of instruction.

17 **MR. MASHBURN:** So a motion to dismiss with a
18 letter of instruction. Is there a second? Is
19 there a second? That motion fails for lack of a
20 second. What's the pleasure of the board?

21 **DR. JOHNSTON:** I move that this case be
22 referred to the Attorney General.

23 **MR. MASHBURN:** Okay, there's been a motion
24 to refer Mr. Hiott's case to the Attorney General
25 for processing. Is there a second?

1 **MS. GHAZAL:** Second.

2 **MR. MASHBURN:** There's been a motion and a
3 second. Any discussion? Hearing no discussion,
4 all those in favor would say aye.

5 **THE BOARD MEMBERS:** Aye.

6 **DR. JOHNSTON:** All those opposed would say
7 no.

8 **MR. LINDSEY:** No.

9 **MR. MASHBURN:** The motion carries 2-1. With
10 regard to respondent Julia Garcia, what's the
11 pleasure of the board?

12 **DR. JOHNSTON:** I move that it be referred to
13 the Attorney General.

14 **MR. MASHBURN:** A motion to refer to the
15 Attorney General. Is there a second?

16 **MS. GHAZAL:** Second.

17 **MR. MASHBURN:** There's been a motion and a
18 second. Any discussion? Hearing none, all those
19 in favor would say aye.

20 **THE BOARD MEMBERS:** Aye.

21 **MR. MASHBURN:** All those opposed would say
22 no. Motion to refer to the Attorney General
23 passes unanimously.

24 With regard to respondent Hattie Mobley,
25 what's the pleasure of the board?

1 **DR. JOHNSTON:** I move that it be referred to
2 the Attorney General.

3 **MR. MASHBURN:** There's a motion to refer to
4 the Attorney General. Is there a second?

5 **MS. GHAZAL:** Second.

6 **MR. MASHBURN:** Motion and a second. Is
7 there any discussion? Hearing none, we're ready
8 to vote. All those in favor of referring the
9 respondent Hattie Mobley to the Attorney General
10 would say aye.

11 **THE BOARD MEMBERS:** Aye.

12 **MR. MASHBURN:** All those opposed would say
13 no. Motion carries unanimously.

14 We'll now move to case number SEB -- SEB
15 2020-2017[sic], Clinch County, tab number 38.
16 Tab 38.

17 Secretary of State's Office, the floor is
18 yours.

19 **MS. KOTH:** On November 23, 2020,
20 investigations received a complaint regarding
21 Clinch County registrars office failed to mail
22 out two UOCAVA ballots by the deadline regarding
23 the January 5, 2021, runoff. The investigator
24 contacted Ms. Ballance, the Clinch County
25 Registrar, and she admitted she missed mailing

1 the ballots for voters Chandle(ph) Clark and
2 Ms. Ford by November 2020 -- 21st, 2020 deadline.
3 Ms. Ballance submitted sworn statements
4 addressing each voter. She advised she would
5 send the investigators the e-mails where she
6 attempted to contact the two voters but the
7 investigator didn't receive the copy of the
8 e-mails.

9 The potential violations: O.C.G.A.
10 21-2-384(a)(2) on mailing of ballots for
11 Ms. Ballance.

12 **MR. MASHBURN:** Okay, any questions for the
13 investigator by the board? Is anybody from
14 Clinch County here? Clinch County? Clinch
15 County? Clinch County? Okay. Hearing none,
16 any -- what's the pleasure of the board?

17 **MS. GHAZAL:** I move that we refer this to
18 the Attorney General's Office and use the
19 opportunity to remind counties that when they are
20 called as respondents, it is in their best
21 interest to come and explain the situation.

22 **MR. MASHBURN:** Okay. There's been a motion
23 to refer to the Attorney General with an
24 admonition to those listening. Is there a
25 second?

1 **DR. JOHNSTON:** Second.

2 **MR. LINDSEY:** Second.

3 **MR. MASHBURN:** Multiple seconds. I'll take
4 that as no discussion. So we're ready to vote.
5 All those in favor would say aye.

6 **THE BOARD MEMBERS:** Aye.

7 **MR. MASHBURN:** All those opposed would say
8 no. Motion carries to refer to the Attorney
9 General. Carries unanimously.

10 Next case is 2020-247, Lowndes County.
11 Lowndes County, tab number 39.

12 Secretary of State's investigator, the floor
13 is yours.

14 **MR. BRUNSON:** Yes. Lowndes County elections
15 supervisor Deb Cox submitted numerous voter
16 registration applications that were deemed
17 potentially problematic due to handwriting and
18 signature issues. All of the voter registration
19 applications came from an organization named Hard
20 Knocks, LLC.

21 Special Agent Zachary Johnson of the GBI,
22 Georgia Bureau of Investigation, interviewed all
23 witnesses and respondents that he was able to
24 locate. Through the information obtained in the
25 interviews and supporting documentation, he was

1 able to identify three respondents who admitted
2 to fraudulently completing voter registration
3 applications.

4 The respondents were identified as Renee
5 Brown, Jahniah Seawright, and Jewel Wims(ph). It
6 should be noted that all Hard Knock, LLC
7 canvassers were required to initial their
8 completed voter registration applications in
9 order to gain credit. The majority of canvassers
10 interviewed said Hard Knocks, LLC set voter
11 registration application quotas, and if not met,
12 they were threatened with termination.

13 Renee Brown worked as a canvasser for Hard
14 Knocks, LLC and was linked by her initials to
15 voter registration applications for Malecia
16 Pettway(ph) and Jennifer Lux(ph). Both Pettway
17 and Lux reviewed their respective voter
18 registration applications and both said they were
19 fraudulent.

20 Jahniah Seawright identified herself as a
21 friend of Hard Knocks, LLC canvasser Lakema
22 Joyce(ph). In an effort to help Mrs. Joyce with
23 her quota, Ms. Seawright admitted to fraudulently
24 completing voter registration applications for
25 various family members, including her mother,

1 grandmother, uncle, aunt, and a friend. All five
2 registrants reviewed their respective voter
3 registration applications and all said they were
4 fraudulent.

5 Mrs. Seawright admitted to completing the
6 applications without consent or speaking to any
7 of the individuals listed above. Each of the
8 applications Mrs. Seawright completed had the
9 initials L.J. on the back except for Jessica
10 Wright's.

11 Jewel Wims admitted to completing six voter
12 registration applications for the following
13 individuals: her father, her aunt -- actually
14 three of her aunts, a friend, and two of her
15 friends. Mrs. Wims claims she contacted each
16 individual on the phone and received consent to
17 use their information and sign their names. By
18 her own admission, each of the six voter
19 registration applications were completed outside
20 the presence of the applicant.

21 And at the time of the investigation,
22 initially, we could not find those applications,
23 however, we did find one of them. Actually today
24 we were able to find one of the applications that
25 we couldn't find before.

1 So just as a note, GBI analysts ran
2 investigation intelligence queries which showed
3 that five out of the twenty-one names listed on
4 voter registration applications were residents of
5 Florida. And there are some names here.

6 So basically based on this investigation,
7 some of the recommended or potential violations
8 that we identified were against -- now there's
9 Tisa(ph) Moore listed. She's a supervisor. We
10 didn't have anything to specifically tie her to
11 the fraud but we have other cases that were
12 similar in nature and I know that the board would
13 like to talk to some of the representatives. And
14 so that's one of the reasons why we've listed her
15 as a respondent for this particular complaint.

16 But obviously we listed Jahniah Seawright,
17 Renee Brown and Jewel Wims as respondent's in
18 this case based on their actions. And that's it.

19 **MR. MASHBURN:** Okay. Thank you. Questions
20 for the investigator from the board?

21 Dr. Johnston has the floor.

22 **DR. JOHNSTON:** Is there any information from
23 your investigation or the GBI's investigative
24 report that suggests that Hard Knocks acts as an
25 agency that directs the fraudulent voter

1 registrations?

2 **MR. BRUNSON:** No. That -- that tells their
3 canvassers to ...

4 **DR. JOHNSTON:** Right. My question is are
5 they encouraging or influencing or requiring
6 these workers to obtain voter registrations
7 whether they're legal or not?

8 **MR. BRUNSON:** I don't think we have any
9 overt information that that's the case. I think
10 it's -- you know, you have to have your ten folks
11 or you're going to be fired. So I think from
12 that pressure, obviously, individuals are
13 unfortunately engaging in this type of conduct.

14 So I don't think we've found any evidence
15 that, you know, overtly said bring us, you know,
16 false or fraudulent. But it's just the pressure
17 and people who work there want to get paid. So I
18 think that's kind of the -- the impetus for this.

19 **DR. JOHNSTON:** Were the training documents
20 that Hard Knocks uses to train these voter or
21 registrations folks -- were those reviewed or did
22 they have training documents or did they say what
23 sort of training they underwent to register
24 voters?

25 **MR. BRUNSON:** Let me look at the case file

1 --

2 **DR. JOHNSTON:** Okay.

3 **MR. BRUNSON:** -- (indiscernible) just a --

4 **DR. JOHNSTON:** The question I'm wondering
5 for this and possibly another case is whether to
6 make a motion to add a complaint violation of
7 conspiracy to commit election fraud, 21-2-603.
8 If an entity is requiring people to commit acts
9 such as false voter registration, maybe the
10 account -- you know, there should be some
11 accountability to an agency such as that.

12 **MR. LINDSEY:** Subject to hearing from the
13 respondents, I might be willing -- might be --
14 add to that.

15 **DR. JOHNSTON:** I mean, if this was important
16 enough for a GBI investigation, then that may
17 suggest that they were concerned also. And we've
18 certainly seen enough of -- similar cases that I
19 think these need to be looked at seriously.

20 **MR. MASHBURN:** Is anyone from Hard Knock
21 Strategies, LLC here? Tisa Moore, Jahniah
22 Seawright, Renee Brown, Jewel Wims? Jewel Wims?
23 Hard Knock Strategy? Tisa Moore, Jahniah
24 Seawright, Renee Brown, Jewel Wims?

25 Hearing none -- hearing no response, what's

1 the pleasure of the board?

2 Member Ghazal?

3 **MS. GHAZAL:** I am -- I'm deeply disappointed
4 that no one from Hard Knocks is here. This is
5 the sort of behavior that gives good,
6 hard-working organizations that conduct
7 excellent, clean voter registration drives a
8 terrible name. Quotas should never be used
9 because it creates a perverse incentive.

10 And I don't see any evidence of an intent to
11 commit voter fraud here. There's nothing in the
12 record that would suggest that that was the goal
13 here. And I think that's assuming facts that are
14 not in evidence. But clearly quota systems are
15 terrible. Quota systems make people who just
16 want a paycheck make things up. And that's what
17 leads to this kind of behavior. And that should
18 not be allowed.

19 I have not done the homework to see whether
20 or not that is illegal within the context of
21 third-party voter registration drives. I will do
22 that and if it is not explicitly prohibited in
23 Georgia code, I will in the future make a
24 recommendation that we prohibit that sort of
25 organizational behavior because it creates

1 perverse incentives and -- and it creates an
2 enormous amount of work for the counties to sort
3 through this and have to come all the way up from
4 Lowndes County to have to deal with this sort of
5 thing.

6 And I am enormously frustrated when I see
7 this. So I just wanted to put that on the
8 record.

9 **MR. MASHBURN:** Okay. So the way --

10 **MR. LINDSEY:** If I may, while --

11 **MR. MASHBURN:** Member Lindsey.

12 **MR. LINDSEY:** -- there may not be direct
13 evidence of fraud, there's certainly
14 circumstantial evidence of fraud.

15 And for that reason at the appropriate time
16 not only will I make a motion to send to the
17 Attorney General but I'd also make a motion to
18 send back to -- is it Lowndes County -- district
19 attorney for further investigation as to criminal
20 charges.

21 **MR. MASHBURN:** Are you ready to make that
22 motion now?

23 **MR. LINDSEY:** Yep.

24 **MR. MASHBURN:** Okay. So member Lindsey has
25 made a motion to sent the case to -- with all

1 defendants to the Attorney General and a
2 recommendation to the district attorney.

3 Dr. Johnston has also spoken about adding a
4 count for conspiracy to commit election fraud.
5 The defendants didn't have notice of that, so
6 that would -- that would be -- that would have to
7 be noticed to them and we would have to hear that
8 at a -- at a future hearing, but there's nothing
9 that says we can't do that.

10 So right now -- so let's make two different
11 motions: one to send to the Attorney General and
12 the district attorney. Is that fairly stated?
13 Somebody's motion?

14 **MR. LINDSEY:** Yes.

15 **DR. JOHNSTON:** Yes.

16 **MR. MASHBURN:** Mr. Lindsey's motion. Is
17 there a second?

18 **DR. JOHNSTON:** Second.

19 **MR. MASHBURN:** Dr. Johnston seconds. Any
20 discussion? All those in favor would say aye.

21 **THE BOARD MEMBERS:** Aye.

22 **MR. MASHBURN:** All those opposed would say
23 no. There's no objection so it passes
24 unanimously.

25 Now, there's a second motion pending from

1 Dr. Johnston to add a count of conspiracy to
2 commit election fraud. Is there a second? That
3 would need to be renoticed by the Attorney Gen --
4 by the Secretary of State's inspectors. Is there
5 a second?

6 **MR. LINDSEY:** Yeah, I'll second that. I'd
7 like to have a further investigation on that.
8 I'm not -- I hear the concern as to whether or
9 not there's any direct evidence, but I would like
10 some additional investigation.

11 **MR. MASHBURN:** And, Dr. Johnston, please give
12 me that code cite again, please.

13 **DR. JOHNSTON:** It is 21-2-603.

14 **MR. MASHBURN:** 603. 21-2-603. So there's a
15 motion to add a count that will be noticed to the
16 respondents of conspiracy to commit election
17 fraud under 21-2-603. Is there a second?

18 **MR. LINDSEY:** Second.

19 **MR. MASHBURN:** Okay. Any discussion?
20 Hearing no discussion, we're ready to vote. All
21 those in favor would say aye.

22 **THE BOARD MEMBERS:** Aye.

23 **MR. MASHBURN:** All those opposed would say
24 no.

25 **MS. GHAZAL:** Nay.

1 **MR. MASHBURN:** So there's 2 to 1.
2 Okay. We're ready to move on to the next
3 one. Tab number 40, Monroe County, nomination
4 petition.
5 **MR. LINDSEY:** We've already done that one.
6 **MR. MASHBURN:** Oh, great. Refresh my
7 recollection how that was resolved. Do you
8 remember?
9 **MR. LINDSEY:** Yeah, we dismissed some, we
10 sent some to the Attorney General --
11 **DR. JOHNSTON:** Yeah.
12 **MR. LINDSEY:** -- and we sent some letters of
13 instruct -- and one letter of instruction.
14 **MR. MASHBURN:** Aw, yes. The Sam Olens case.
15 **MS. GHAZAL:** Yes.
16 **MR. MASHBURN:** Okay. Thank you. I needed
17 a -- I needed a hook to access that. You're
18 absolutely right. Thank you so much. That's
19 right. We sure did. Thank you so much. It's
20 terrible getting old, isn't it?
21 SEB 2020-265, Worth County. The floor
22 belongs to the inspectors.
23 **MR. BRUNSON:** Okay. The Worth County Board
24 of Elections was concerned that a person had
25 intentionally tried to register to vote multiple

1 times and had requested multiple absentee
2 ballots. The Worth County Board of Elections
3 reported that Mr. Daniel Merle Crawford has three
4 registration accounts and numerous absentee
5 ballot applications.

6 It also reported that Mr. Crawford spells
7 his first name with a "y" and an "ie" at the end,
8 that he sometimes go by the name Donnie instead
9 of Danny and there are discrepancies in the
10 addresses used.

11 Mr. Crawford was interviewed by one of our
12 investigators, and he indicated that the ballot,
13 slash, applications kept coming in the mail. So
14 he would complete them and send them back. The
15 investigator asked Mr. Crawford how many absentee
16 ballots he sent in, and Mr. Crawford stated he
17 doesn't know how many he mailed in.

18 The investigator confirmed that Mr. Crawford
19 was involved with establishing three voter
20 registration accounts, each of the three
21 spellings of his first name all maintain the same
22 or similar pronunciation. Other than the three
23 spellings of his first name, all maintain the
24 same or similar -- you know, what, I just
25 repeated that. Other than the spelling, all of

1 the pertinent information, identified
2 information -- middle and last name, birth date,
3 and address -- is the same on each account.

4 Worth County elections supervisor,
5 Mrs. Brandy Harris, documented in her handwritten
6 timeline, quote: We should've caught the
7 duplicates. Mrs. Harris and the Worth County
8 Board of Elections and Registration believe
9 they've -- they have identified the problem that
10 allowed the multiple voter registration accounts
11 to be established and contend they have
12 implemented measures to prevent it from occurring
13 again.

14 A separate complaint, identified and made by
15 Mrs. Harris during this investigation, is the
16 fact that Mr. Crawford was able to cast two
17 absentee ballots that were accepted. The ballots
18 were cast by a voter registration account. Two
19 separate ones, one with a registration date of
20 7/27/2020 and the other 7/7/1980. These two
21 accepted absentee ballots before the November 3,
22 2020, general election.

23 During the recorded telephone interview with
24 Mr. Crawford, he reiterated that the ballots just
25 kept coming. So he filled them out and sent them

1 back.

2 Ultimately the only way that Mr. Crawford
3 was able to have two absentee ballots accepted
4 for the same election is because the Worth County
5 Board of Elections and Registration allowed
6 multiple counts to be established in
7 Mr. Crawford's name.

8 So the potential violations for
9 Mr. Crawford, O.C.G. 21-2-572, repeat voting in
10 the same primary or election and also O.C.G.
11 21-2-226(a), duties of the board in determining
12 eligibility of voters -- maps of municipal
13 boundaries, et cetera.

14 And then also Brandy Harris, Worth County
15 elections supervisor, Worth County Board of
16 Elections and Registration, there is evidence to
17 suggest that Brandy Harris and the Worth County
18 Board of Elections and Registration were in
19 violation of O.C.G.A. 21-2-226(a) when he was
20 able to establish three separate voter
21 registration accounts, all under the same last
22 name and other personal identifying information.
23 One count.

24 **MR. MASHBURN:** Okay. Questions for the
25 investigator by the board?

1 **MS. GHAZAL:** Mr. Chairman?

2 **MR. MASHBURN:** Member Ghazal.

3 **MS. GHAZAL:** Can you tell me how old this

4 voter is?

5 **MR. BRUNSON:** He is 63.

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

7 **MR. MASHBURN:** For the record, Dr. Johnston

8 just remarked on how young he was.

9 **DR. JOHNSTON:** Are --

10 **UNIDENTIFIED SPEAKER:** (inaudible)

11 **DR. JOHNSTON:** Supervisor.

12 **MR. MASHBURN:** (indiscernible). Is anybody

13 here from Worth County? Worth County?

14 Welcome. We're glad to have you here today.

15 If you'll press on the button in front of you,

16 I'll turn on the microphone for you. Okay.

17 Great. Please identify yourself for the record.

18 You are free to stand if you wish or sit. Either

19 one. Whichever is your pleasure.

20 **MRS. BOWLES:** Okay, thank you. Brandy

21 Bowles now. I got married in 2021.

22 **MR. MASHBURN:** Well, congratulations and

23 best wishes. That's wonderful.

24 **MRS. BOWLES:** Thank you. Thank you for

25 having me. This is my first time at the capitol,

1 unfortunately under these circumstances. But I
2 do have a statement I put together if I can just
3 read that to you.

4 **MR. MASHBURN:** The floor is yours.

5 **MRS. BOWLES:** Thank you. I'm the
6 supervisor, again, for the Worth County Board of
7 Elections. This investigation actually began
8 when I self-reported my concern of a person,
9 Mr. Danny Merle Crawford. He sent in multiple
10 registration forms and received multiple absentee
11 ballots for the November 2020 and the
12 January 2021 election.

13 As to the voter registration submissions,
14 Mr. Crawford submitted voter registrations on
15 July 6, 2004 in the name of Donnie, within an
16 "ie." And on August 2016, in the name of Danny
17 with a "y". In 2020 registrations were sent in
18 the name of Dannie with an "ie" on July 27th,
19 September 14th, September 20th, and
20 September 23rd.

21 Although much of the information, such as
22 the address and date of birth, remained the same
23 on the registrations, the Worth County Board of
24 Election and Registration provided three
25 accounts. The first account was Donnie, one for

1 Danny with a "y," and one for Dannie within an
2 "ie".

3 The first account appears to have been
4 created in 2004 under Donnie. In 2016 when he
5 filed at registration again, the registration at
6 that time caught it and merged it. In 2020
7 Mr. Crawford filed four different registrations
8 within two months, providing the name with a "y"
9 and an "ie." There were two different accounts
10 created for each. On the account created for
11 Dannie with an "ie," there's a different Social
12 Security number in the system.

13 As to the absentee ballots, in the 2020
14 election he requested five absentee ballots in
15 the two elections of November 3, 2020, and the
16 January 5, 2021 through a rollover and other
17 applications. For the November 3, 2020,
18 election, under the account of Danny with a "y,"
19 a ballot was requested and issued. That vote was
20 counted in the election. Under the account for
21 Dannie within an "ie," a ballot was requested and
22 issued. That vote was counted also in the
23 election.

24 I discovered the issue of Mr. Crawford on
25 December 9, 2020, and reported the issue to Blake

1 Evans, the elections director.

2 For the January 5, 2021, election, there
3 were three ballots requested and issued, which
4 were issued prior to December 9th. However, only
5 one ballot was accepted under that account.

6 And also I want to state at that point, I
7 put him in a challenge status. So if, you know,
8 he were to come in and try to vote any other way,
9 he would be flagged.

10 So the end result is that Mr. Crawford voted
11 twice in the November 3, 2020, election. As I've
12 explained, this occurred due to the two very --
13 two registration accounts that were created due
14 in part to the name variation.

15 As I know the board is aware -- I'm sure
16 we're all tired of the word -- or the numbers
17 "2020" -- it was the first general election
18 conducted with the pandemic with the new
19 equipment. We have one full-time and one
20 part-time employee and a working board that
21 usually comes in during elections. We're a --
22 one of the smaller counties. The number of poll
23 workers at that time went from 78 to 20. Board
24 members, staff, myself, or our family members
25 living in our homes with us were all in the

1 higher risk category.

2 The protocols for handling absentee
3 ballot -- including sanitizing ballots, use of
4 gloves, masks -- increased the time it took to
5 handle those ballots. And as the board is aware,
6 the number of absentee ballots was unprecedented
7 throughout the state of Georgia during this
8 election.

9 In Worth County we had a 533 percent
10 increase in the number of absentee ballots. So
11 the number of ballots dramatically increased, the
12 time to process the ballots increased, and we had
13 far fewer people performing work under very
14 difficult circumstances.

15 I offer all of this information not to
16 excuse anything, just to try to explain at least
17 in part why it happened. Hopefully we will never
18 have to experience it again, but with every type
19 of experience we do learn from it. And we have
20 learned from it.

21 So I do offer solutions. We have
22 implemented many things since then. And I thank
23 you for letting me --

24 **MR. MASHBURN:** That's music to board member
25 Lindsey's ears.

1 **MR. LINDSEY:** Yeah.

2 **MRS. BOWLES:** Great.

3 **MR. MASHBURN:** He loves -- he loves
4 solutions.

5 **MR. LINDSEY:** Yes. Because we have a lot of
6 folks around the state who do listen in from
7 boards. So what were some of your steps that you
8 took? What do you think needs to be taken to
9 make sure this sort of thing doesn't happen
10 again?

11 **MRS. BOWLES:** Well, in our defense, there
12 was not a lot of people -- there was only one to
13 two people doing absentees and then everybody
14 that came in to help us with the influx was, you
15 know, trained on the fly.

16 **MR. LINDSEY:** Sure.

17 **MRS. BOWLES:** We're opening, sanitizing
18 them. It was just insane. So I do have an
19 absentee ballot clerk that she's the only one
20 allowed to do it, but we do help stamp and
21 process. But it's nothing like the amount of
22 ballots we had been ...

23 We do now use Google forms and Google sheets
24 that has a numbered list for the absentee ballots
25 and the applications. And also we're using it

1 with the voters list. We're sending a voter list
2 to a Excel spreadsheet and filtering it by date
3 of birth and filtering it by the first name so
4 that we can find any duplicates that way.

5 This makes it easier to find the duplicates
6 and document any complications. With the
7 implementation of SB202, only authorized people
8 can send applications. This has helped in
9 lowering voter confusion and clerical errors on
10 our part. So we are happy about SB202 with that
11 part because the voters were calling all the
12 time. They were confused. They were getting
13 applications from everywhere, including us. So
14 everyone was confused.

15 Our office is more vigilant in preventing
16 duplicate registrations. We check more than just
17 the name. We check the date of birth, the
18 address, and all the other pertinent information.
19 It's important to be detail oriented.

20 I believe the state has changed to the GRVIS
21 system and I believe that will help us catch some
22 of them but we don't depend solely on the
23 registration system.

24 Lastly, we have added the other ballot
25 clerk.

1 That was my last one. And I just thank you
2 again for let me speak.

3 **MR. MASHBURN:** Thank you for your comments.
4 Just kind of one statement for the board with
5 regard to institutional memory is that the board
6 has traditionally treated self-reporting cases in
7 two different manners. And one was "I did
8 something wrong and I'm self-reporting that I did
9 this," and in the other instance, "Somebody
10 tricked me into doing something and I'm
11 self-reporting it," and we've always wanted to
12 not discourage people from self-reporting
13 either -- either example of those instances.

14 So to just kind of bring us around to how we
15 traditionally handle cases like this, but now
16 turn it over to the board to find out what the
17 board's thinking is, unless Mr. Crawford is here.
18 Mr. Crawford is here? No?

19 **UNIDENTIFIED SPEAKER:** Not here
20 (indiscernible).

21 **MRS. BOWLES:** I believe -- I believe he
22 actually showed up at our office in Worth County,
23 in Sylvester. He may have been a little
24 confused --

25 **MR. MASHBURN:** Okay, so he --

1 **MRS. BOWLES:** -- of where to go.

2 **MR. MASHBURN:** Okay. So he was down in --

3 he was down in Sylvester. Okay. Well --

4 **MR. LINDSEY:** But he was only 63 so that's

5 not an excuse.

6 **MR. MASHBURN:** All of us up here that are 63

7 think -- think that's a perfect age.

8 **MR. LINDSEY:** In all seriousness, I'd like

9 to bifurcate and treat these two as separate.

10 **MR. MASHBURN:** Okay. There has a unanimous

11 consent request to bifurcate and treat these as

12 separate. Is there any objection?

13 **DR. JOHNSTON:** No.

14 **MR. MASHBURN:** Without objection, so

15 ordered. Mr. Lindsey has the floor.

16 **MR. LINDSEY:** As to the county, I would move

17 to dismiss with a letter of instruction.

18 **MR. MASHBURN:** There's been a motion to

19 dismiss with a letter of instruction as to the

20 county. Is there a second?

21 **DR. JOHNSTON:** Second.

22 **MR. MASHBURN:** It's been moved and seconded.

23 Is there a discussion? Dr. Johnston --

24 **DR. JOHNSTON:** Yeah, yeah.

25 **MR. MASHBURN:** -- has a discussion.

1 **DR. JOHNSTON:** So, you know, I'm kind of
2 conflicted. It's a wonder that Mr. Crawford
3 didn't vote about ten times from all the voter
4 registrations -- five applications, three voter
5 registrations, two votes, and one person.
6 That's -- you know, I -- you know, maybe it's
7 multiple personalities or something.

8 **MRS. BOWLES:** One other thing I do -- I can
9 say to that is that was at the time period where
10 Runbeck -- we could opt-in for Runbeck to send
11 all of our rollover ballots. And since he was on
12 the rollover on two of those accounts, it
13 automatically sent him ballots and then it went
14 from there.

15 **DR. JOHNSTON:** Bonus. I did check Worth
16 County for your voter -- your citizen voting age
17 population percentages and I commend you because
18 you seem to have good voter rolls. And I agree
19 that he should have not slipped through and your
20 corrective measures I adore. I love hearing
21 that. So I hope all of the counties are
22 listening and will follow suit. Thank you.

23 **MR. MASHBURN:** Question -- motion from the
24 board. We've got a motion. We got a motion to
25 dismiss with a letter of instruction that has

1 been seconded. There was discussion. Now we're
2 ready to vote. All those in favor would say aye.

3 **THE BOARD MEMBERS:** Aye.

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

6 And now we are -- what's the board's
7 pleasure with regard to Mr. Crawford?

8 **MR. LINDSEY:** Mr. Chairman, I would move to
9 refer the matter to the Attorney General.

10 **MR. MASHBURN:** A motion to -- to refer to
11 the Attorney General for processing.

12 **DR. JOHNSTON:** Second.

13 **MR. MASHBURN:** Is there a second?

14 **DR. JOHNSTON:** Second.

15 **MR. MASHBURN:** It's been moved and seconded.
16 Any discussion? With regard to discussion, I'm
17 disturbed on this instance with the changing of
18 the spelling of names. It shows some sort of
19 culpable intent in my mind. So I agree with the
20 referral to the Attorney General.

21 Any further discussion? If there's none,
22 we're ready to vote. All those in favor of
23 referring to the Attorney General would say aye.

24 **THE BOARD MEMBERS:** Aye.

25 **MR. MASHBURN:** All those opposed would say

1 no. Motion carries unanimously.

2 If you'll excuse me for just one second, I
3 need to respond to an urgent e-mail that requires
4 immediate attention. Excuse me for just a
5 second.

6 (Pause)

7 **MR. MASHBURN:** Okay. It was always more
8 sinister in your minds than what it actually was.
9 It's a doctor's office wanting to know if I can
10 make an appointment. So I needed to let them
11 know that I was available so that I didn't lose
12 the appointment. So thank y'all for y'all's
13 indulgence.

14 Okay. We're ready to move to the next
15 matter. I've got 42, Chatham County, poll
16 watcher issue, 2020-279.

17 **MR. BRUNSON:** Okay.

18 **MR. MASHBURN:** Everybody agrees we're on tab
19 42. Investigators, the floor is yours.

20 **MR. BRUNSON:** Okay. This complaint was
21 brought by Russell Bridges who is the retired
22 elections supervisor for Chatham County. And he
23 indicated concern that a Kristina Malimon came in
24 as a poll watcher and covertly filmed around the
25 operations which is directly in violation of

1 O.C.G.A. 21-2-408(d) regarding poll watchers
2 designation and duties.

3 He also provided a link to a video that was
4 posted online by Mrs. Malimon with NTD news, New
5 Tang Dynasty television, and there's a title --
6 there's a link where the video is. I actually
7 watched the video. And this was during the
8 presidential race recount.

9 He also talks about some of the statements,
10 the incorrect statements that she makes on her
11 video. He lists the following: that she
12 misidentifies network switch boxes as Internet
13 modems; she also misidentifies a uninterruptible
14 power supply, also known as a UPS, as a server;
15 she also misidentifies a security key reader as a
16 USB flash drive; and that she also alleges that
17 these items were connected to the Internet.

18 Mr. Bridges states that she illegally filmed
19 almost all of the footage that takes place at the
20 annex within the private area while she was there
21 in her capacity as a poll watcher. And --

22 **MR. ARCHIE:** (indiscernible). She was also
23 on a vote review panel also. She took an oath to
24 be on the vote review panel when she did these
25 acts.

1 **MR. MASHBURN:** Okay. Step toward the
2 microphone so that the court reporter can take
3 this down, please.
4 **MR. ARCHIE:** Yes, sir.
5 **MR. MASHBURN:** Please identify yourself.
6 **MR. ARCHIE:** I'm Glenn Archie. I work for
7 the Secretary of State's Office, investigations
8 in Macon.
9 **MR. MASHBURN:** Welcome, Investigator Archie.
10 **MR. ARCHIE:** Yes, sir.
11 **MR. MASHBURN:** If you'd please repeat that
12 for the court reporter so she can take it down.
13 **MR. ARCHIE:** Yeah. I just wanted to add
14 that she was also a member of the vote review
15 panel and she took an oath to be a member of
16 that. That's how she gained access in those
17 areas.
18 **MR. MASHBURN:** Okay, thank you, Inspector
19 Archie.
20 Questions from the board? Questions from
21 the board?
22 **DR. JOHNSTON:** Question.
23 **MR. MASHBURN:** Dr. Johnston?
24 **DR. JOHNSTON:** Chair -- or for Mr. Archie.
25 It says she was behind the enclosed space. Does

1 that mean she was within the enclosed space?
2 What does behind mean?

3 **MR. ARCHIE:** Well, the way they set up their
4 annex --

5 **MR. MASHBURN:** If you'd move closer to the
6 mic. I'm sorry to fuss at you.

7 **MR. ARCHIE:** They set up their --

8 **MR. MASHBURN:** I don't mean to fuss at you.

9 **MR. ARCHIE:** They set up their annex. They
10 put, like, a two-by-four framed wall around the
11 area. They put plywood on the bottom. The top
12 area had plexiglass where people who just want to
13 come in and watch, they would stay outside that
14 location. All the workers would go inside the
15 area where they had all the equipment when they
16 did the recount. She was in that area as one of
17 the members of the review panel.

18 **DR. JOHNSTON:** Looking through the plate --
19 plexiglass?

20 **MR. ARCHIE:** No. She was inside the area --

21 **DR. JOHNSTON:** Insi --

22 **MR. ARCHIE:** -- working as a member of the
23 review panel.

24 **DR. JOHNSTON:** Oh, she was working when she
25 took the video?

1 **MR. ARCHIE:** Right. She -- she was on the
2 review panel.

3 **DR. JOHNSTON:** And the election was over.

4 **MR. ARCHIE:** Right.

5 **DR. JOHNSTON:** It was during the recount.

6 **MR. ARCHIE:** Yes, ma'am.

7 **DR. JOHNSTON:** Well, my -- my opinion is
8 once the election's over and the votes are cast,
9 that I think photographing and recording is
10 perfectly acceptable. I know that's not the --
11 the rules that are written. Or they may vary
12 depending on the action that's taking place or
13 what -- what part of the election process is
14 undertaken.

15 **MR. MASHBURN:** Mr. Lindsey?

16 **MR. LINDSEY:** While I respect Dr. Johnston's
17 opinion, the fact of the matter is we can't have
18 folks on their own violating the law. The remedy
19 is very simple. You go to the General Assembly
20 to change the law or you come to us if it's a
21 rule. But you don't simply just take it upon
22 yourself to -- to ignore a -- a written
23 prescription -- prohibition.

24 **MR. MASHBURN:** Member Ghazal?

25 **MS. GHAZAL:** I think it's also important to

1 note that not only was it filmed but it was also
2 posted with incorrect information,
3 disinformation, with regard to the processes that
4 were being witnessed and reported. And that
5 disinformation is what has helped fuel a lot of
6 the conspiracy theories about Internet
7 connections with our -- with our system, and that
8 is incredibly damaging.

9 **MR. MASHBURN:** Okay. Kristina Malimon.
10 Kristina Malimon. Is Kristina Malimon here?
11 Kristina Malimon. Okay. Any further questions
12 by board members for the inspectors? Any board
13 member would like to make a motion?

14 **MR. LINDSEY:** Move to refer to the Attorney
15 General.

16 **MR. MASHBURN:** There's been a motion to
17 refer to the Attorney General. Is there a
18 second?

19 **MS. GHAZAL:** Second.

20 **MR. MASHBURN:** There's been a motion to
21 refer to the Attorney General and that has been
22 seconded. Any further discussion? We're ready
23 to vote. All those in favor would say aye.

24 **THE BOARD MEMBERS:** Aye.

25 **MR. MASHBURN:** All those opposed would say

1 no.

2 **DR. JOHNSTON:** No.

3 **MR. MASHBURN:** Okay. Richmond County was
4 continued. That was number 43. Richmond County
5 was continued. So we're now into Chatham County,
6 residency issues, number 44. Forty-four in your
7 tab, case number 2020-293.

8 Investigator Archie also on this one. So we
9 might have you back at the mic in a minute.

10 But for the investigators, the floor is
11 yours.

12 **MR. LINDSEY:** Mr. Chairman, before we do
13 that ...

14 Alex, in one of our, you know, visits to
15 various boards, it was re -- in one of our visits
16 to various boards, I think it was me and
17 Dr. Johnston, a request was made when we send out
18 an agenda to specify whether or not the complaint
19 is an individual complaint or a complaint against
20 the county just to sort of make sure that's
21 clarified so that the counties can know, okay, I
22 don't need to attend.

23 It may say, for instance, Chatham County,
24 but Chatham County knows that they don't have to
25 attend because it's not their board. So we can

1 just sort of clarify that in terms of whether or
2 not it's an individual com --

3 **MS. HARDIN:** (inaudible)

4 **MR. MASHBURN:** Yeah, just to -- if I may
5 interrupt for a second if you don't mind,
6 Mr. Lindsey.

7 **MR. LINDSEY:** Yeah.

8 **MR. MASHBURN:** I do remember this
9 discussion. And the issue was that sometimes
10 there's a reference to a county and that was the
11 venue of the event that that happened --

12 **MR. LINDSEY:** Yeah.

13 **MR. MASHBURN:** -- but it gave the impression
14 that the county had done something wrong.

15 **MR. LINDSEY:** Yeah, that's what I'm --

16 **MR. MASHBURN:** And so we're working on --
17 we're going to work on trying to correct that.

18 **MR. LINDSEY:** Yeah. Anyway if we can figure
19 out something with that.

20 **MR. MASHBURN:** Yeah.

21 **MS. HARDIN:** (inaudible)

22 **MR. LINDSEY:** Like I said, we can figure out
23 something like that.

24 **MS. HARDIN:** Yes.

25 **MR. LINDSEY:** And I will leave it to you and

1 the discretion of the chair on how you do it.
2 But just if you can figure something out.

3 **MR. MASHBURN:** Yeah. Thank you for -- thank
4 you for the -- thank you for that reminder.
5 That's a -- that was a good point when it was
6 raised and -- yeah, well, I appreciate you
7 bringing it up again so that we can --

8 **MR. LINDSEY:** Thank you.

9 **MR. MASHBURN:** -- continue to work on that.
10 Thank you. Okay.

11 So now we're on to tab 44.

12 **MR. BRUNSON:** Okay.

13 **MR. MASHBURN:** 2020-293.

14 **MR. BRUNSON:** All right. The Secretary of
15 State's Office received the following complaints
16 during the November 3, 2020, general election and
17 January 5, 2021, general election runoff in
18 Chatham County.

19 So there were a total of four different
20 complaints on individuals as it relates to them
21 basically voting and not having the standing to
22 vote. The first one -- and this is from an
23 anonymous individual -- reports that Danica
24 Rubenstein of Morgantown, West Virginia owns a
25 home in Savannah, Georgia. The complainant

1 states that she has a full-time job in Morgantown
2 and that they did not believe she met the
3 residency requirement to be eligible to vote in
4 Georgia.

5 Number two, the complainant reports that
6 Islands Public Library was an early voting
7 location and they were in violation of the law
8 because they had campaign material inside of the
9 library.

10 Mrs. Weeks advised the library had a focal
11 display case dedicated to, quote, Black Lives
12 Matter, antiracism, and other overtly partisan
13 statements under the guise of social justice.
14 She states the bookcase has a sign above it
15 stating, Woke, quote, unquote.

16 The third complaint, a complainant, Lori
17 Accettola reports Russell and Barbara Smart have
18 residency in Ohio and California. She states the
19 Smarts told him they are going to Georgia just to
20 vote in the senate election and they have no
21 intention to live in Georgia.

22 And then finally Totes Legit reports they
23 were comparing election data between North
24 Carolina and Georgia and they found a voter that
25 might have voted in Georgia and North Carolina

1 during the November 3, 2020, general election.
2 And they advised the voter's name is Marcos A.
3 Morales.

4 As it relates to allegation one, the
5 investigation revealed a reference that Danica
6 Rubenstein and her fiancé purchased a home in
7 Savannah, Georgia. She stated she had every
8 intention of moving to Georgia. She obtained a
9 driver's license, registered to vote. She
10 applied for several jobs in Savannah, but at this
11 time she has not found employment. She sold her
12 home in West Virginia, moved in with her fiancé,
13 and she indicated that as soon as she finds
14 employment, she is moving to Georgia.

15 There's also a question of standing for the
16 complainant for this complaint, and this
17 allegation was not sustained.

18 As it relates to allegation two, the Woke
19 display and the accompany -- accompanying books
20 were not in the room where the early voting was
21 being held at the Island Library. The location
22 of the display was outside of the view of the
23 voters. This allegation is not sustained.

24 The third revealed that the Smarts moved to
25 Georgia in their motor home. They stayed at

1 their granddaughter's residence in Pooler,
2 Georgia. They registered to vote there. Once
3 they purchased a home in Guyton, Georgia, they
4 moved their voter registration to Effingham
5 County. That allegation is not sustained.

6 Allegation four, Marcos Morales voted in the
7 November 3, 2020, general election in North
8 Carolina and Georgia. He requested an absentee
9 ballot from North Carolina. It was mailed to his
10 residence in Albany, Georgia. He mailed the
11 ballot back to North Carolina and it counted.

12 On November 3, 2020, Mr. Morales presented
13 himself at a poll in Savannah, Georgia and he
14 voted again. He voted more than once in the
15 general election.

16 During the interview, he remembered
17 requesting a ballot in North Carolina, but he did
18 not remember voting that ballot. He advised he
19 did not knowingly vote twice after he received
20 multiple ballots from Georgia and North Carolina.
21 He was informed that they were probably
22 applications and then he advised he might've
23 voted a real ballot on October 20, 2020, but it
24 was his first time and he wasn't sure.

25 And he ultimately said he thought he was

1 requesting a ballot from North Carolina. So
2 based on that, there is evidence to suggest that
3 Marcos Morales violated O.C.G.A. 21-2-572, repeat
4 voting in the same primary or election.

5 **MR. MASHBURN:** Member Ghazal?

6 **MS. GHAZAL:** I believe we received a letter
7 from Mr. Morales and he had asked if it could be
8 read into the record.

9 **MR. MASHBURN:** That's a unanimous consent
10 request. Are there any objections?

11 **DR. JOHNSTON:** No.

12 **MR. MASHBURN:** Without objection, so
13 ordered. Who wants to -- who wants to read it?

14 **MS. GHAZAL:** I've got --

15 **MR. MASHBURN:** Member Ghazal just
16 volunteered.

17 **MS. GHAZAL:** I -- I remembered it. So this
18 is from Mr. Morales who was not able to be here.

19 (reading) Thank you for the opportunity to
20 explain myself on this situation. To initially
21 start, I want to express that this was an utmost
22 genuine mistake that was done unknowingly. The
23 events started with me requesting a ballot from
24 North Carolina and which I received shortly
25 after.

1 (reading) The mistake that took place was
2 believing that I had received in the mail was an
3 official request form and not the ballot itself.
4 My thought process was the form that arrived
5 would have the selections of how you would want
6 your official ballot to look like, i.e., if I
7 selected Republican personnel, I would receive a
8 Republican ballot. Or if I requested Democrat
9 party, I would have requested a -- received a
10 Democrat ballot.

11 (reading) I understand this thought process
12 seems ignorant, but please understand this was my
13 first time ever voting or ever seeing a ballot.
14 Upon sending in the ballot, what I thought was
15 the official request form, I never received
16 anything in the mail. Due to the short voting
17 period, I decided to go in person to a voting
18 booth in Albany, Georgia.

19 (reading) Once this was done, at that point,
20 I ended up voting twice by accident. I only was
21 made aware of this incident when an agent from
22 Georgia contacted me after the voting period.
23 Once again, this was a mistake committed
24 unknowingly, and I will make sure to review
25 voting procedures prior to trying again.

1 Respectfully, Marcos Morales.

2 And his -- he is in the marines. He is an
3 acting first sergeant of the U.S. Marine Corps.

4 **UNIDENTIFIED SPEAKER:** Wow.

5 **MR. MASHBURN:** Okay. What's the -- one
6 thing I'd like to kind of clarify is that
7 Mr. Morales's original complaint -- complainant
8 is -- is Totes Legit which I don't believe is an
9 organization. I believe it's just, like, an
10 Internet handle.

11 So I want to go ahead and put Totes Legit on
12 notice that it's the board's inclination that the
13 board is going to take seriously the right to
14 confront your accuser. And so Totes Legit, if
15 they want to file complaints in the future, needs
16 to have a human or an organization recognized by
17 the state to be behind -- behind the motion -- or
18 behind the complaint in order to satisfy the
19 requirement that those that are accused of an
20 offense should have the right to confront their
21 accuser.

22 Now, since the investigation took place and
23 was revealed by the inspector of the Secretary of
24 State, the accuser is actually in this case the
25 Secretary of State and not Totes Legit. So I

1 think -- I think you do have -- if Mr. Morales
2 had been able to come, he would've had the right
3 to confront his accuser because the accuser
4 would've been the Secretary of State's
5 investigators.

6 So -- but I do put -- want to put Totes
7 Legit on notice that in the future the board is
8 going to re -- require -- probably require -- if
9 it's the board's will, require that you've got
10 to -- if you're going to file a complaint against
11 your fellow citizens, you better put your name on
12 it.

13 So just my thought -- my thought on the
14 topic. But having said that, what is the will of
15 the board? Thoughts, ideas?

16 **DR. JOHNSTON:** I -- I make a motion to refer
17 to the Attorney General.

18 **MR. MASHBURN:** Okay. There's been -- and
19 this is only on Morales, the only one that was
20 sustained, right?

21 **DR. JOHNSTON:** Correct.

22 **MR. MASHBURN:** Okay. So there's been a
23 motion to refer Mr. Morales to the Attorney
24 General. Is there a second? Okay, no second.
25 So the motion fails for lack of a second. Is

1 there another motion?

2 **MS. GHAZAL:** I move that we issue a letter
3 of reprimand from the board. I do not want any
4 actions that could jeopardize this young man's
5 professional future within the Marine Corps.

6 **MR. MASHBURN:** Okay. There's been a motion
7 to issue a letter of reprimand. Is there a
8 second?

9 **MR. LINDSEY:** A second but a question.

10 **MR. MASHBURN:** Okay. There's been a second.
11 so we're ready for discussion.

12 **MR. LINDSEY:** Did he vote in both Georgia
13 and North Carolina?

14 **MR. ARCHIE:** Yes, he did. He voted in both
15 states.

16 **MR. LINDSEY:** He voted in both states.

17 **MS. GHAZAL:** He did.

18 **MR. MASHBURN:** Okay, is there any further
19 discussion?

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

21 **MR. MASHBURN:** Dr. Johnston?

22 **DR. JOHNSTON:** So O.C.G.A. 21-2-572 says
23 repeat voting in the same election is a
24 violation. It doesn't talk about intent. So
25 intent is not considered and the circumstance is

1 up to the Attorney General to mitigate --
2 **MR. LINDSEY:** I'm going to --
3 **DR. JOHNSTON:** -- the allegation.
4 **MR. LINDSEY:** At the appropriate time, I'm
5 going to move to reconsider Dr. Johnston's.
6 **MR. MASHBURN:** I'm going to actually make it
7 a ruling from the chair and allow you to withdraw
8 your second if you'd like.
9 **MR. LINDSEY:** Yeah, withdraw my second.
10 **MR. MASHBURN:** Okay. The second's
11 withdrawn. So the -- the slate is now clean.
12 We're ready for anyone to make a brand-new
13 motion.
14 **MR. LINDSEY:** I'm -- I'd like to move to --
15 to reconsider Dr. Johnston's motion.
16 **MR. MASHBURN:** Okay. There's a motion --
17 there's a motion that's been remade to refer to
18 the Attorney General's Office. Is there a
19 second?
20 **DR. JOHNSTON:** Second.
21 **MR. MASHBURN:** No, you made the motion.
22 **DR. JOHNSTON:** Oh, it was my motion. I'm
23 sorry.
24 **MR. LINDSEY:** I second.
25 **MR. MASHBURN:** Okay. So there's a motion

1 and a second. All right. Motion to refer to the
2 Attorney General and second. Discussion?

3 **MR. LINDSEY:** Yeah. I -- I've struggled
4 with this because he's in the marines and I don't
5 want to -- and I -- and I respect folks who
6 serve. But the fact that he voted in two
7 different states, I've got two children who serve
8 and I think they know not to -- not to vote in
9 two different states. And we'll leave it to the
10 Attorney General to sort of talk with him and
11 figure out what's the best way to deal with this
12 issue.

13 **MR. MASHBURN:** Yeah, there's -- there's no
14 way we can fully appreciate and recognize those
15 that have risked their lives for the rest of us
16 and put their lives on the line to defend the
17 country. But at the same -- at the same time,
18 they've got to obey the laws that they defend.
19 So we've got kind of a conundrum on that one,
20 don't we?

21 So there's been a motion to refer to the
22 Attorney General and it's been seconded. There's
23 been discussion. Are we ready to vote? No
24 further discussion?

25 **MR. LINDSEY:** Yeah.

1 **MR. MASHBURN:** Okay, we're ready to vote.
2 All those in favor would say aye.
3 **THE BOARD MEMBERS:** Aye.
4 **MR. MASHBURN:** All those opposed would say
5 no.
6 **MS. GHAZAL:** Nay.
7 **MR. MASHBURN:** Motion carries 2 to 1.
8 Okay, now we've got tab number 45, SEB
9 2021-079, a voter problem.
10 **DR. JOHNSTON:** Mr. Chairman?
11 **MR. MASHBURN:** Dr. Johnston.
12 **DR. JOHNSTON:** Just a word if I may. For
13 the record, I have a family full of marines and
14 my son that's a marine would have agreed with me
15 100 percent. So ...
16 **MR. MASHBURN:** Duly noted. Duly noted.
17 Okay, we're ready to move on to 45. Tab number
18 45.
19 The inspectors, the floor is yours.
20 **MR. BRUNSON:** Okay. The Secretary of
21 State's Office opened its investigation after
22 receiving complaints --
23 **MR. MASHBURN:** Okay, I'm sorry. I'm sorry.
24 I thought -- I thought we were going to interrupt
25 you, but I interrupted you inadvertently. I'm

1 sorry. So please begin again. I'm sorry, my --
2 my error.

3 **MR. BRUNSON:** The Secretary of State's
4 Office opened this investigation after receiving
5 complaints from Gwinnett County voter Tyler Alvin
6 Morris, reporting that someone illegally used his
7 identity to cast a vote for the November 2020
8 general election because he went to polls -- to a
9 poll during the advance voting period on or about
10 October 28, 2020, to vote. While there poll
11 officials informed him that he had already voted
12 when in fact he had not.

13 So upon further investigation, on
14 February 21, 2021, Kristi Royston, then-election
15 supervisor of the Gwinnett County Board of
16 Elections and Registration, conducted a follow-up
17 inquiry and advised the Secretary of State's
18 Office that the advanced polling site incorrectly
19 marked advanced in-person applicant Tyler Rhyne,
20 R-h-y-n-e, Morris as Tyler Alvin Morris and gave
21 the credit to Tyler Alvin Morris.

22 Royston provided a copy of the voter
23 registration and elections application for
24 official -- official advance in-person voting
25 completed by Tyler Rhyne Morris on October 14,

1 2020, which show a poll worker Susan Sharp
2 printed a barcoded label from the Georgia Voter
3 Registration System, better known as E-Net, in
4 the name of Tyler Alvin Morris and affixed the
5 label to the AIP application for Tyler Rhyne
6 Morris.

7 Royston further advised that Tyler Alvin
8 Morris was issued a provisional ballot on
9 November 3, 2020. However, the provisional
10 ballot was not counted though E-Net showed he
11 received voting credit for an AIP ballot he did
12 not cast.

13 On March 24, 2021, a review by
14 then-investigator Humes of Tyler Alvin Morris's
15 voter history in the Georgia Voter Registration
16 System that Tyler Alvin Morris was erroneously
17 given credit for Tyler Rhyne Morris's vote cast
18 on October 14, 2020.

19 On March 29, 2021, Investigator Humes
20 obtained and reviewed a copy of the ballot style
21 for Tyler Rhyne Morris and Tyler Alvin Morris.
22 Despite the fact that Tyler Rhyne Morris was to
23 receive credit for voting, the ballots revealed
24 that Tyler Rhyne Morris voted out of district and
25 as a result of the error, Tyler Rhyne Morris was

1 not afforded the opportunity to vote for some
2 local candidates that would have appeared on his
3 correct ballot.

4 So ultimately the investigative findings,
5 the investigation revealed that a Gwinnett County
6 voter properly completed an application for
7 official advance in-person voting to cast a vote
8 in the November 2020 general election.

9 The voter also presented a valid
10 identification with his application that was
11 accepted. However, the poll worker at the
12 advance voting site subsequently selected the
13 name of a different voter with a similar name and
14 went through the process.

15 So ultimately there is evidence to suggest
16 that poll worker Susan Sharp violated SEB rule
17 183-1-12-.11(2)(a) that says: When a person
18 presents himself or herself at the polling place
19 for the purpose of voting during the time during
20 which the polls are open for voting, the person
21 shall complete a voter certificate and submit it
22 to the poll officer. The voter's certificate may
23 be an electronic or paper record. The poll
24 officer shall verify the identity of the person
25 and that the person is a registered voter of the

1 precinct and if so, shall approve the voter
2 certificate and enter an appropriate designation
3 on the elector list for the precinct, reflecting
4 that the voter has voted in the primary election
5 or runoff being conducted. The voter's name
6 shall then be entered onto the appropriate list
7 of voters.

8 **MR. MASHBURN:** Okay. Questions for the
9 investigator by the board? Okay.

10 Is anybody here from Gwinnett County?

11 **MS. WILSON:** (indiscernible), Mr. Chairman.

12 **MR. MASHBURN:** If you'd press your button.
13 There you are. I see you.

14 **MS. WILSON:** I pressed my button.

15 **MR. MASHBURN:** There you go. We should have
16 a good microphone for you.

17 **MS. WILSON:** I think I have a good
18 microphone.

19 **MR. MASHBURN:** All right.

20 **MS. WILSON:** So, Mr. Chairman and members of
21 the board, thank you for the opportunity to
22 address -- address the board on this matter. As
23 I understand it, the named respondents are Miss
24 Sharp; Kristi Royston, former elections
25 supervisor; and the Gwinnett County Board of

1 Registration and Elections. If the investigator
2 would confirm that for me before I begin my
3 comments to the board, that would be helpful.

4 Certainly Miss Royston's -- we sent
5 correspondence to Gwinnett as well as the board.
6 I cannot speak for Miss Sharp. I don't know if
7 she was noticed; I would say that.

8 But there's three things I want to talk
9 about because these are tough facts. Because at
10 the end of the day two voters were
11 disenfranchised. And that's not something that
12 I'm here on behalf of the board to deny. I'm
13 accompanied by the current elections supervisor
14 Zach Manifold. Miss Royston left the county in
15 March of 2021.

16 This matter arises from the November 2020
17 election and it was first heard by this board in
18 September of 2021. And I reviewed the transcript
19 and at that time it was my understanding that,
20 looking back at the transcript, a critical
21 document that we thought was relevant for the
22 board to have was not available. And that turned
23 out to be the absentee -- the advance in-person
24 application that shows the erroneous sticker on
25 the wrong application.

1 So we have Tyler R. Morris of Buford turns
2 out to vote during AIP. And the -- the poll
3 worker would say that she scanned the driver's
4 license. What -- whatever happened there,
5 certainly the wrong voter was identified. That's
6 the bottom line. And we're not here to -- to run
7 away from that fact. But I am grateful that I --
8 we have identified the document that tells the
9 truth about what happened. This was not voter
10 fraud. This was a human failure, a series of
11 human errors and subsequent human failures. And
12 I'll speak to all -- all three of those.

13 I think it might be helpful if you haven't
14 seen it for me to give you a copy of the advance
15 in-person application with the sticker on it.
16 Because I have a copy of that if that would be
17 helpful. (indiscernible).

18 **MR. MASHBURN:** Yeah, absolutely. I think
19 this -- this might be the first time we've seen
20 you in person. We -- we have heard you over the
21 phone many times. So welcome. Good to see you.

22 (Ms. Wilson hands document to the board
23 members.)

24 **DR. JOHNSTON:** Thank you.

25 **MS. WILSON:** Thank you.

1 I'm going to start first by acknowledging
2 that there was a failure here. Two voters were
3 disenfranchised. That failure was ours. It sits
4 squarely on the shoulders of the Gwinnett County
5 election officials.

6 I had the opportunity to attend GAVREO last
7 week and I heard Chairman Mashburn -- Mashburn
8 speak. And I made a note of something that he
9 said. He said: Rigorous attention to the
10 mundane can prevent problems. And that's going
11 to stick with me, and I was glad that I was there
12 with several members of the team, from Gwinnett
13 County election officials' team, for us to hear
14 reiterated over and over again the importance of
15 what seems mundane, super important every time.
16 The mundane, that's where the details -- the
17 devil's in the details but we're called upon to
18 get it right.

19 In Gwinnett County in 2020, we had
20 approximately 416,000 voters cast ballots. Two
21 hundred seventeen of those voted during AIP,
22 73,000 voted on election day, and a hundred and
23 twenty-four thousand voted on absentee ballot.

24 In 2022 we had a hundred and seventy-two
25 thousand people voted. Over a hundred thousand

1 voted on election day and 20,000 people voted
2 absentee. So we're in the business of, in our
3 county, serving large numbers of people, hundreds
4 of thousands of voters every cycle. But that
5 doesn't matter, because in relation to this voter
6 we failed, and that's something we have to take
7 responsibility for.

8 Gwinnett County has a standard of excellence
9 that it holds itself to. We fell short of that.
10 And I can only offer an apology on behalf of the
11 board. I think it's appropriate. We didn't
12 serve the voters well.

13 So the first error was when the poll worker
14 pulled the wrong voter -- whether that was in
15 scanning the driver's license, identified the
16 voter incorrectly, pulled the wrong sticker as
17 you can clearly see. Tyler A.'s sticker was
18 applied to the absentee -- the advance in-person
19 application for Tyler R. That was the first
20 mistake.

21 But there were points in the process later
22 on that could've avoided the -- the
23 disenfranchisement of the voter because there was
24 an opportunity. Mr. Tyler A., when he then
25 attempted to vote, he was given an absent -- a

1 provisional ballot. I want to come back to that
2 issue, but he was given a provisional ballot.

3 There's no specific category that addresses
4 a voter in that situation. So we know about out
5 of precinct, we know about additional documents
6 required. But a voter that gets to the polls and
7 is told, Oh, our records show you've already
8 voted, there's no specific category statutorily
9 authorized. But that was a failsafe measure that
10 was taken.

11 And it would've worked if when we were
12 reviewing the provisional ballot during that --
13 the validation process between election day and
14 certification if we had pulled the documentation.
15 There was a form that was generated when
16 Mr. Tyler A. voted that specifically said: This
17 voter is -- is authorized to receive an absentee
18 ballot because he contends that -- that he didn't
19 vote. But we -- when we pulled the provisional
20 ballots, when we reviewed the documentation, if
21 we had gone back to pull Tyler R.'s application,
22 the story would've been revealed and we wouldn't
23 be here.

24 So rigorous attention to the mundane makes
25 all the difference. So, again, human error

1 compounded by subsequent human failure.

2 So it becomes important then that I address
3 the second topic. What steps -- because this
4 is -- this is -- it's critical to us to get it
5 right because we want to get it right. The
6 voted -- voters deserve that. What steps have we
7 take subsequently, subsequent to November 2010 to
8 prevent this from happening?

9 So there's been a technological advance
10 that's going to help us. And I want to start
11 with the -- the statewide deployment of poll
12 pads. We can't claim responsibility for it, but
13 we know it can save us. It can save us. The way
14 the poll pad works in -- works is that the voter
15 goes to the election site.

16 Let's start with AIP -- advance in-person
17 voting, early voting, whatever you want to
18 describe it. And so when the voter checks in,
19 vast majority of people in the state using -- use
20 a driver's license or that gets scanned, pulls
21 back the voter from GRVIS. That's how it's
22 supposed to work.

23 Alternatively if the voter produces some
24 other form of identification, the poll man -- the
25 poll worker would identify the voter. They're on

1 the screen, this little screen that sits on the
2 desk. The poll worker finds it. They turn the
3 screen around. And so the voter now is actively
4 engaged in the process of confirming: I am
5 Melanie Wilson of Peachtree City. That's me and
6 I signed that form. So then I'm actively
7 engaged -- engaged in the process.

8 The mistake that occurred in 2020 couldn't
9 occur in the future that we are about to inhabit
10 beginning -- you know, as we start our election
11 cycle in January. So even though we won't take
12 credit for that as a step that we've taken, it's
13 technology -- it's the deployment of technology
14 that we intend to take full advantage of.
15 Because what we're going to do in Gwinnett
16 County, we're going to have printers at the AIP
17 location.

18 So that certificate's going to print out.
19 So it gets signed by the voter. The voter can
20 confirm: Yes, that's me. The certificate is
21 generated by the poll pad. We'll print it out
22 and then we'll have an audit process that matches
23 the voter certificate with the correct advance
24 in-person application. So that document there in
25 the future not so distant would have attached to

1 it the correct voter certificate, signed by the
2 voter. So were going to maximize the utility of
3 the poll pad.

4 The other two measures that I can speak to
5 that we've done in response to this incident,
6 there is a -- an hourly count at advance
7 in-person polling locations of -- of the
8 voters who -- we count the number of applications
9 that have come in, the advance in-person
10 application, to see, okay, here we are every
11 hour, how many people have come in? How many
12 people have voted? And there's going to be a
13 review on site to look at the fields, go back and
14 make sure that the certificate that I just
15 mentioned matches. That's going to happen at the
16 AIP location.

17 So additionally that last failsafe measure
18 that I spoke about, when we had the opportunity
19 to check the paperwork before the provisional
20 ballot validation process, we've added a step to
21 the provisional ballot review worksheet that
22 mandates, requires that any paperwork that speaks
23 to the complaint or the underlying reason for why
24 the provisional ballot was cast in here, it
25 would've been cast because Mr. Morris said, Well,

1 I've been told I've already voted but I -- I
2 haven't. It would force the poll worker who's
3 working on that provisional ballot review to go
4 put their hands on the application to
5 double-check the story, to double-check that a
6 voter like Mr. Morris isn't being
7 disenfranchised.

8 So we think between the deployment of the
9 poll pads and improved review process at the AIP
10 location and this improvement to the provisional
11 ballot research that happens before they're
12 validated, that those three measures will
13 minimize the risk of this happening.

14 The challenge that we have is we have to
15 live with human error but it shouldn't
16 disenfranchise a voter. So there should be
17 layers in place to prevent a voter from being
18 disenfranchised.

19 I think -- these are hard facts and what I
20 would ask the board to consider doing here is
21 certainly -- well, I want to talk about training
22 because when we look at this issue, we feel
23 comfortable and confident that we have good
24 training in -- in effect, good -- a good training
25 process, good manuals, good documentation.

1 And I can certainly speak to the individual
2 poll worker here. We checked our records. She
3 served in 2018, 2020. She served in May of 2022
4 but hasn't served since then. But we know that
5 in this particular situation, training was not
6 the issue. But, of course, in training we
7 constantly emphasize the importance of checking
8 the details. Rigorous attention to the mundane
9 can prevent big problems.

10 And so in relation to this situation, in the
11 ideal world if I could leave here with a letter
12 of instruction, that would be great. But I -- I
13 don't -- I don't feel able to ask that of the
14 board. I think I'd -- I'm asking for it on
15 behalf of -- for Miss Royston because she is no
16 longer in the elections business. I don't see
17 that -- I wouldn't -- I don't see the point of a
18 sanction against her for something like this.

19 But I think that we've offered an
20 explanation for the failure, not a justification
21 for it. The one thing -- one of the things that
22 I'm grateful for is that we were able to put our
23 hands on the documentation that tells the story
24 because I think in an era of heightened scrutiny
25 by active engaged citizens around election

1 administration, our ability to find documents to
2 tell the story, that's -- that's worth something.

3 And so as you deliberate, I'd ask you to
4 take all those -- those facts into consideration.
5 I don't know if you have any other questions for
6 me or any questions for Mr. Manifold. But I
7 think that's the extent of my comments. Thank
8 you.

9 DR. JOHNSTON: Thank you so much. I have a
10 question.

11 MR. MASHBURN: Dr. Johnston has the floor.

12 DR. JOHNSTON: Is the sticker placed on the
13 application before the voter signs or after the
14 voter signs?

15 MS. WILSON: After the voter signs.

16 DR. JOHNSTON: Okay. So obviously the
17 sticker -- sticker's wrong.

18 MS. WILSON: It is.

19 DR. JOHNSTON: And the address is wrong.

20 MS. WILSON: Well, the address belongs to
21 Tyler A. Morris.

22 DR. JOHNSTON: Right.

23 MS. WILSON: But the address does not belong
24 to Tyler R. Morris who presented himself to vote.

25 DR. JOHNSTON: Right. Right.

1 **MS. WILSON:** Absolutely.

2 **DR. JOHNSTON:** So who checks between the

3 two? I mean, who checks the address on the

4 sticker, the information on the sticker is the

5 same that was filled out by the voter?

6 **MS. WILSON:** So the poll worker scans the

7 driver's license --

8 **DR. JOHNSTON:** Right.

9 **MS. WILSON:** -- that's typically the form of

10 ID that's presented. This situation occurred

11 while we were using the E-Net system and so E-Net

12 generates the sticker and the stickers is applied

13 to the advance in-person application. It's

14 supposed to be checked, Dr. Johnston. There's

15 no -- there's no hiding from the fact that it's

16 supposed to be checked.

17 **MR. MASHBURN:** Dr. Johnston, still have the

18 floor? You're satisfied?

19 Okay, member Ghazal.

20 **MS. GHAZAL:** At the appropriate time, I'd

21 like to make a motion.

22 **MR. MASHBURN:** Okay.

23 **MS. GHAZAL:** I would move that we dismiss

24 Kristi Royston from the case and refer the county

25 and Miss Sharp to the Attorney General's Office

1 with a request that they work closely with the
2 county and to take into context the fact that
3 they have taken tremendous steps to prevent this
4 from recurring.

5 **MR. MASHBURN:** Okay, there's been a motion.
6 Is there a second?

7 **MR. LINDSEY:** Yeah, I'll second it.

8 And usually, as you've seen before -- if I
9 may, Mr. Chairman, you know, we usually -- we try
10 to go with a letter of reprimand or a letter of
11 instruction. But due to the fact that two voters
12 were disenfranchised, I think we have to take
13 that a little more seriously.

14 And -- but I do recognize the work that
15 you've done to rectify that.

16 And, Zach, you've got a good lawyer here and
17 you're a good supervisor. And I just simply ask
18 that you work with the Attorney General's Office
19 to work out a consent order.

20 **MS. WILSON:** Yes, sir.

21 **MR. LINDSEY:** And let's make sure it doesn't
22 happen again.

23 **MS. WILSON:** Yes, sir.

24 **MR. LINDSEY:** Thank you. But that -- that's
25 the reason why I'm going that extra length rather

1 than just simply a letter of reprimand is that
2 two voters were disenfranchised.

3 **MS. WILSON:** I understand.

4 **MR. MASHBURN:** Okay. Let me make sure I've
5 got the motion accurately stated. There's a
6 motion to dismiss Kristi Royston.

7 **MS. GHAZAL:** Yes.

8 **MR. MASHBURN:** Okay. Motion to dismiss
9 Kristi Royston and a motion to refer the county
10 to the Attorney General.

11 And Dr. Johnston would like to have
12 discussion, I believe, if I'm reading her
13 incorrectly.

14 **DR. JOHNSTON:** I would've asked for a letter
15 of instruction in this situation. I think the
16 equipment has changed and they certainly
17 recognize the error. I -- I suspect in a county
18 as large as Gwinnett, inadvertent, totally
19 unintentional errors can be made. Especially
20 with people with similar names, with very similar
21 names.

22 But you're exactly right, attention to
23 detail. It's hurry up slowly, you know, which
24 means, you know, you want to be efficient and
25 process voters in a timely way but not make

1 mistakes. There's probably an acceptable error
2 rate in an election if we were -- you know, if we
3 looked into it. Not that it -- I mean, we want a
4 hundred percent but it's looking at the -- the
5 big problems or the patterns that I think really
6 need to be sent to the Attorney General.

7 **MR. MASHBURN:** Okay, there's a motion on the
8 floor that's been seconded. Any further
9 discussion? Okay, so there's a motion to dismiss
10 Kristi Royston and a motion to refer the county
11 to the Attorney General with due consideration of
12 the excellent presentation that the county put on
13 with regard to what happened and what they've
14 done to prevent it from happening in the future.
15 And we request that that be taken into
16 consideration. All -- any further discussion?
17 All those in favor would say aye.

18 **THE BOARD MEMBERS:** Aye.

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

21 **DR. JOHNSTON:** No.

22 **MR. MASHBURN:** 2 to 1. Motion carries. Now
23 we move -- now we move to --

24 **MR. BRUNSON:** Tab 46.

25 **MR. MASHBURN:** -- 46, possible absentee

1 ballot fraud. Everybody agree?

2 **MR. BRUNSON:** Yes.

3 **MR. LINDSEY:** Yes.

4 **MR. MASHBURN:** 2021-104.

5 That was an excellent presentation,
6 counselor. Well done.

7 **MS. WILSON:** Thank you, Chairman.

8 **MR. MASHBURN:** You -- y'all are excused
9 unless you've got another one, and I don't think
10 you do.

11 **MS. WILSON:** No, sir.

12 **MR. MASHBURN:** Y'all are excused.

13 The investigator has the floor.

14 **MR. BRUNSON:** Former chief investigator
15 Frances Watson reports that during the
16 November 3, 2020, general election, an absentee
17 ballot was requested in the name of Mark Kendall
18 Johns, and he requested it to be mailed to
19 Kannapolis, North Carolina. The ballot was
20 returned to the Chatham County elections office
21 and the signature of the voter was verified and
22 the ballot was counted. She later interviewed
23 Mr. Johns and he denied requesting and voting an
24 absentee ballot from Georgia.

25 So from there -- well, ultimately the

1 investigation revealed that Mr. Johns was listed
2 as an active voter on the Chatham County voter
3 list. An application for an official absentee
4 ballot was mailed to Mr. Johns during the
5 November 3, 2020, general election. Mr. Johns no
6 longer resided in Georgia but he filled out the
7 application anyway. He was found eligible to
8 receive the ballot and he requested it to be
9 mailed to his residence in North Carolina.

10 Mr. Johns voted the ballot and he mailed it
11 back to the Chatham County elections office and
12 it was counted. Mr. Johns was contacted by
13 former chief investigator Watson about an
14 allegation that he no longer resided in Georgia
15 when he voted the absentee ballot. Mr. Johns
16 submitted a statement that said, quote: I did
17 not vote in Georgia. If a vote was cast in my
18 name, then it was in error or possibly
19 fraudulent. Please disregard. Thank you, Mark
20 Johns, end quote.

21 Investigators interviewed Mr. Johns and he
22 reported he did not remember voting an absentee
23 ballot from Georgia. Mr. Johns stated he
24 definitely voted and he thought he voted in North
25 Carolina. Investigators informed Mr. Johns he

1 was not registered to vote in North Carolina,
2 that he was a registered voter in South Carolina
3 and Georgia.

4 Investigator advised Mr. Johns the statement
5 he sent to chief -- former chief investigator
6 Frances Watson that if a vote was cast in my
7 name, then it was in error or possibly
8 fraudulent. That investigator asked Mr. Johns
9 what he meant by error, and he said he was
10 peppered with a lot of requests to register to
11 vote. He said he thought he was filling out
12 something from North Carolina.

13 He advised he might've gotten something from
14 Georgia and he certainly did not remember going
15 out and asking for anything from Georgia.
16 Mr. Johns stated he could've done it and that is
17 why he says it's in error, because if he did it,
18 he did not mean to.

19 So ultimately he hasn't lived in Georgia
20 since 2018 and he voted. So based on that,
21 there's evidence to suggest Mark Kendall Johns
22 violated O.C.G.A. 21-2-573, absentee voting by an
23 unqualified elector during the November 3, 2020,
24 general election.

25 **MR. MASHBURN:** Is Mr. Johns here?

1 Mr. Johns? Mark Kendall Johns? Okay, questions
2 for the investigator? Questions from the board
3 for the investigator? Okay.

4 **MR. LINDSEY:** Just to start with a comment
5 if I may. Starting to sound like the ol' three
6 level defense to a dog bite case: Not my dog, my
7 dog didn't bite, he bit my dog first.

8 At the appropriate time, I'll make a motion.
9 I mean, he came up with (indiscernible) story
10 too.

11 **MR. MASHBURN:** I believe this is the
12 appropriate time if you have a motion.

13 **MR. LINDSEY:** Move to refer to the Attorney
14 General.

15 **MR. MASHBURN:** There's a motion to refer to
16 the Attorney General. Is there a second?

17 **DR. JOHNSTON:** Second.

18 **MR. MASHBURN:** It's been seconded by
19 Dr. Johnston. A motion and a second. Is there
20 any discussion? No discussion. We're ready to
21 vote. All those in favor would say aye.

22 **THE BOARD MEMBERS:** Aye.

23 **MR. MASHBURN:** All those opposed would say
24 no. Motion carries 3-0. Refer it to the
25 Attorney General.

1 And the last case we have for today's
2 session is qualifying and residency in Grady
3 County. Anybody here from Grady County? You get
4 the award for the most patient. Okay. Nobody
5 here from Grady County. So the floor belongs to
6 the investigators.

7 **MR. BRUNSON:** On September 13, 2021,
8 Investigator Miller was forwarded a complaint,
9 alleging Jeremiah Horne qualified as a District 4
10 city council candidate for Cairo -- the city of
11 Cairo while residing outside the city limits.

12 Mr. Horne reportedly resides at 1911 Georgia
13 Highway 93 North in Cairo. Yet he qualified for
14 the District 4 city council race declaring 745
15 U.S. Highway East in Cairo as his residence.

16 On August 25, 2021, an individual filed a
17 challenge to the qualification of Horne based
18 upon residency requirements. He mentioned
19 Mr. Horne, having signed his notice of candidacy,
20 an affidavit of his legal residence being
21 745 Highway 84 East in Cairo and being a resident
22 there for one year. It was discovered this
23 address was zoned as commercial and it's the
24 location XPT Battery Company which is his
25 company.

1 A hearing was held concerning Horne's
2 residency and the hearing transcript, along with
3 the qualifying documents, were obtained from the
4 city clerk in Cairo, Dana Barfield. Based on
5 circumstances surrounding Horne's residency
6 issues, it was determined his actual residence is
7 located outside the Cairo city limits and not the
8 business address inside the city of Cairo.

9 Mr. Horne was disqualified from the Cairo
10 District 4 city council race. And the conclusion
11 was Mr. Horne resided at 1911 State Highway 93
12 North in Cairo which is outside the city limits.

13 On February 10, 2022, Mr. Horne responded
14 and addressed the residency issue in an e-mail
15 statement. Those statements were in 2011 he
16 moved into the city of Cairo where he also opened
17 a business. He registered to vote at the
18 business address of 745 U.S. Highway 84 East.
19 His first time voting in the city was the 2012
20 presidential election.

21 A few years later, while building, he moved
22 family in with his parents in the county. He
23 listed his business address as his personal
24 address on all accounts since 2011. He preferred
25 to receive his mail at his business. In 2014 he

1 moved into the home located in the county. In
2 2019 his office moved down the street into a
3 different district. In June 2020, he renewed his
4 driver's license, registering to vote, with
5 documents listing his business address.

6 He does not own, lease, nor receive mail as
7 his -- at his nightly resting place and he has no
8 documents associated with his current residential
9 address. Ultimately he was disqualified based on
10 his own admission surrounding his residency.

11 On Wednesday, February 23, 2022, it was
12 discovered -- supervisor Archie investigated a
13 separate case, SEB 2021-182, city of Cairo,
14 problems at polling place, and had gathered facts
15 and evidence to cite Mr. Horne along with his
16 wife for violating O.C.G.A. 21-2-561, false
17 registration in that in 2020 they both registered
18 to vote in Grady County using the address of
19 their business, XPT Battery Company located at
20 745 U.S. Highway 84 in Cairo. The Hornes did not
21 reside at the business but they permanently
22 reside at the location 1911 Highway 93 North in
23 Cairo.

24 So ultimately determined that there is
25 evidence to suggest that Jeremiah Horne violated

1 O.C.G.A. 21-2-565, making a false statement in
2 connection with the filing for his notice of
3 candidacy and that on August 18th, he filed his
4 notice listing his residence address as 745 U.S.
5 Highway 84 East in Cairo, Georgia, which was the
6 address of his business, which is the XPT Battery
7 Company.

8 **MR. MASHBURN:** Questions for the
9 investigator from the board? Questions for the
10 investigator from the board?

11 **MR. LINDSEY:** Just take -- just -- just one
12 quick. In -- in Georgia, Houston is pronounced
13 Houston, Milan is -- or Milan is pronounced
14 Milan. And only in the state of Georgia could we
15 pronounce Cairo as Cairo.

16 **MR. MASHBURN:** Cairo.

17 **MR. BRUNSON:** I was from Florida by way of
18 Wisconsin, so ... I've been here three years, so
19 ...

20 **MR. LINDSEY:** You're my -- you're my great
21 investigator. Don't get me wrong. I'm just --
22 I'm just trying to help you.

23 **MR. MASHBURN:** Is Mr. Horne here?

24 Mr. Horne? Mr. Horne? Mr. Horne here?

25 Well, just for people listening out there in

1 the public, one of the questions that we always
2 get is why does it matter if you use a business
3 address or a -- or a residence address? And the
4 law requires the residence address. And the
5 reason why the law requires the residence address
6 is you're to be voting for the local officials
7 who represent the area where you live. And your
8 business might very well be in a completely
9 different commissioner district, for example, and
10 you're voting on somebody else's commissioner and
11 not voting on your own commissioner. So that's
12 why it matters.

13 And so, you know, one of the questions that
14 you always get is what -- well, why does it
15 matter? And that's why. We want you voting for
16 the officials that are closest to you.

17 Questions, comments from the board?

18 Comments from the board?

19 **DR. JOHNSTON:** Well, I'm -- I'm -- actually
20 I'm thrilled that you said that because why does
21 it matter? If it matters where you live to run
22 for a contest, then certainly it should matter
23 where you live to vote --

24 **MR. MASHBURN:** Exactly.

25 **DR. JOHNSTON:** -- so that a commercial

1 address would not be an acceptable residence
2 address. But I think we have some
3 inconsistencies in our -- our counties as far as
4 how they treat voter registration addresses.

5 So I'm -- I'm delighted that you brought
6 that up because we should be consistent and
7 uniform in how we deal with -- with candidates
8 for office and how we deal with registration of
9 electors.

10 **MR. MASHBURN:** And if I might -- if I might
11 append my remarks. One of the issues that we've
12 come up with, is there were people that used
13 addresses because somebody wanted to kill them.
14 And so they're like, I don't want to put my real
15 address because somebody's trying to kill me.
16 But this -- in this case I'm bothered because it
17 just says it's more convenient.

18 And so you shouldn't be voting for other
19 people's elected officials just because
20 something's convenient. So that's what bothers
21 me on this one.

22 **DR. JOHNSTON:** Certainly. And -- and I
23 think the situation, the rare situation that
24 "somebody's trying to kill me" cannot possibly
25 apply to the many, many people that are

1 registered to vote at nonresidential addresses.

2 **MR. MASHBURN:** And we -- and we -- and the
3 board has publicized with the great help of the
4 Atlanta Journal-Constitution. The AJC helped get
5 out the word that there is a safe program where
6 you can register and vote and participate if
7 you're in a situation that's dangerous. So
8 thanks to -- thanks to the Atlanta Journal for
9 getting that out -- to get that information out.
10 We appreciate it.

11 **DR. JOHNSTON:** That's great. We appreciate
12 it.

13 **MR. MASHBURN:** Thoughts from the board?
14 (indiscernible) from the board how you're going
15 to treat this?

16 **MR. LINDSEY:** Motion to refer to the
17 Attorney General.

18 **MR. MASHBURN:** There's been a motion to
19 return it to -- to refer to the Attorney General.
20 Is there a second?

21 **DR. JOHNSTON:** Second.

22 **MR. MASHBURN:** It's been motioned and
23 seconded, moved and seconded. All in --
24 discussion? All those in favor would say aye.

25 **THE BOARD MEMBERS:** Aye.

1 **MR. LINDSEY:** Aye.
2 **MR. MASHBURN:** All those would -- what?
3 **MR. LINDSEY:** Aye.
4 **MR. MASHBURN:** Okay. All those -- all those
5 opposed would say no. Okay.
6 That -- that concludes today's agenda. And
7 we will stand in recess until tomorrow morning.
8 **MR. BRUNSON:** Excuse me.
9 **MR. MASHBURN:** (indiscernible)
10 **MR. BRUNSON:** Excuse me.
11 **MR. MASHBURN:** We will -- hang on.
12 **MS. KOTH:** I don't know what -- we tabled
13 Tab 28.
14 **DR. JOHNSTON:** (indiscernible) because it
15 needs Michael Barnes.
16 **MS. KOTH:** Okay. Just wanted to make sure
17 we were (indiscernible).
18 **MR. MASHBURN:** Okay. Okay, we got that
19 handled. So we will now stand in recess until
20 9:30 a.m. tomorrow morning in the same room. And
21 since we are in recess, there's no need for a
22 motion.
23 (Adjourned for the day at 4:42 p.m.)
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CERTIFICATE

STATE OF GEORGIA

I hereby certify that the foregoing meeting was taken down and was reduced to typewriting under my direction; that the foregoing transcript, pages 3 through 308, 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 19th day of January, 2024.

Mary K McMahan

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

1
2 THE OFFICE OF SECRETARY OF STATE
3 STATE OF GEORGIA

4 IN THE MATTER OF:

5 STATE ELECTION BOARD MEETING

6
7 Wednesday, December 20, 2023

8 Georgia State Capitol, Room 341

9 Atlanta, Georgia

10 9:30 a.m.

11 Day 2 of 2

12
13
14 **APPEARANCE OF THE PANEL**

15 Matt Mashburn, Acting Chair

16 Janice Johnston

17 Ed Lindsey

18
19
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21
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23 MARY K MCMAHAN, CCR, 2757
24 STEVEN RAY GREEN COURT REPORTING LLC
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Transcript Legend

[sic] - Exactly as said.

(ph) - Exact spelling unknown.

-- Break in speech continuity.

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

Quoted material is typed as spoken.

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

2 **MR. MASHBURN:** Ready to go ahead and get
3 started. We've got a busy morning this morning
4 ahead of us. So we'll call the meeting to order
5 and I will go ahead and give an invocation. So
6 pray with me, please.

7 (Invocation)

8 **MR. MASHBURN:** We'll now do the Pledge of
9 Allegiance. And I'll ask Mr. Lindsey to lead it
10 if he'd like to.

11 **MR. LINDSEY:** Please stand.
12 (Pledge of Allegiance)

13 **MR. LINDSEY:** Thank you.

14 **MR. MASHBURN:** Everybody please be seated.

15 **Petition for Amendment of Rule of State**
16 **Election Board - Garland Favorito - Rule**
17 **183-1-12-.23 Storage of Returns**

18 **MR. MASHBURN:** The first item on the agenda
19 today is a petition for amendment of rule of
20 state election board. Garland Favorito is the
21 petitioner.

22 Mr. Favorito, the floor is yours. You can
23 present up here or from your chair, whichever is
24 your -- your -- whichever is your pleasure.

25 I had offered you up to thirty minutes and

1 you said that you didn't need that long. So
2 we're not going to keep you on a strict timer.
3 We'll just let you -- let you go as you will.

4 **MR. FAVORITO:** Thank you, Mr. Chairman.

5 **MR. MASHBURN:** You are on now.

6 **MR. FAVORITO:** All right. Thank you,
7 Mr. Chairman. Are you -- I don't know, probably
8 try to keep this to about fifteen minutes as
9 possible.

10 I have a little handout. This is a very
11 simple rule change. It's very straightforward.
12 I've got a little handout that we can follow
13 along for the presentation. It has to do with
14 memory cards.

15 This handout is also available on our social
16 media platforms, Telegram, if anybody's watching
17 at home. And it'll be on our studies tab this
18 afternoon.

19 This has to do with memory cards and the
20 retention of memory cards. First of all, as you
21 see on our diagram, you know, what does the
22 memory card contain? We know that it contains
23 in-person ballot image, cast vote records, and
24 audit logs based on testimony and so on. And we
25 also know that these are election records and

1 they're created automatically when ballots are
2 scanned in order to tabulate votes.

3 So they are probably the most important
4 election records other than the physical ballots
5 because they can be used to reproduce the
6 election results. And that's why they're so
7 critical.

8 Under federal law, they are required to
9 be -- our election records are required to be
10 retained for 22 months and under state law for 24
11 months. And that is -- I'm referring to
12 52 USC 20701. It says: Every officer of
13 election shall retain and preserve, for a period
14 of twenty-two months, all records and papers
15 which come into his possession relating to any
16 act requisite to voting. That's 52 USC 20701.

17 In Georgia O.C.G.A. 21-2-273 says: All
18 primary and/or election documents shall be
19 preserved therein for a period of least 24
20 months.

21 So it's pretty common and standard. I don't
22 think that's a surprise to anyone here. But
23 under state election board current rule
24 183-112-.13, it says that the election
25 superintendent may use the memory cards for

1 programming ballot scanner units for the next
2 primary election or runoff.

3 Well, the next runoff could be within 30 to
4 60 days. And according to federal and state law,
5 they -- this has a two-year -- you know, election
6 records have a two-year retention period. So
7 what we're proposing to do here is very simply
8 change that statement to say that the election
9 superintendent shall retain the memory cards for
10 a period of 24 months in accordance with Georgia
11 law. So that's something similar to that. And
12 then there's a couple of additional minor changes
13 in there.

14 So I wanted to try to address what the
15 arguments could possibly be against this. We've
16 heard a couple of things. We said Senate Bill
17 202 made ballot images public record in 2021, but
18 that is really irrelevant because election
19 records have always had a two-year retention
20 period. So what happened in 2021 with Senate
21 Bill 202 was a good thing, but it didn't -- it's
22 not relevant to what we're discussing here.

23 The other issue that comes up is cost. The
24 memory cards, we believe, cost about \$10 each,
25 depending upon the storage capacity. And they

1 could be purchased as commercial off-the-shelf
2 products from third parties and used. So you --
3 cost is really not an issue, particularly when
4 you consider the cost of this voting system.

5 There was a hundred and seven plus million
6 dollar initial purchase. There's a seven to ten
7 million additional total per year for all the
8 counties to perform maintenance, testing,
9 certification, licensing, storage, and logistics.
10 There was a -- \$35 million in taxpayer-funded
11 interest when they purchased the system. And
12 this was done without any of the required fiscal
13 notes either for the initial purchase or for
14 ongoing expenses.

15 And then finally it was financed by a
16 20-year bond for a system that had a 10-year
17 shelf life. So we're going to be paying for this
18 system 10 years after it's done. That -- so the
19 \$10 for memory cards -- and you only have to buy
20 those once because once you retain them, you can
21 reuse them after two years. That's not a
22 legitimate argument.

23 I want to just mention to you a couple of
24 other things. We found that in our -- we did a
25 survey about images statewide, all hundred and

1 fifty-nine counties. We found out that a couple
2 of times counties have told us that the elections
3 director and people in the elections office have
4 actually told him they can go ahead and overwrite
5 the memory cards. We have a letter -- e-mail
6 here in my record there from former elections
7 director Chris Harvey back in 2020 as well as one
8 from Michael Barnes who's still on staff. And he
9 said that you can clear used CF cards when you're
10 ready. Well, that's not really true. That's not
11 conforming to federal or state election law.

12 So just to wrap up, I mentioned in my letter
13 that we had -- we did this ballot image analysis
14 for open records requests, survey all the images
15 statewide. We found out some really appalling
16 information that 70 Georgia counties out of a
17 hundred and fifty-nine could not actually produce
18 the original 2020 ballot images which were
19 required to be retained for two years based on
20 our -- you know, the clear, plain text of federal
21 and state law.

22 What we found was that there was a total of
23 roughly 1,726,651 missing original ballot images
24 from the 2020 election. That is across 70
25 counties. Thirty-six of those counties are

1 missing all 100 percent of the original ballot
2 images. Six of the counties had no recount or
3 original ballot images. Seventeen counties only
4 had recount images. And the reason why a recount
5 image doesn't work is because the metadata is --
6 you need the metadata from the original ballot
7 images not from the recount. There's no original
8 timestamp for audit purposes, no original
9 metadata, and the image could've been replaced
10 between the time of the recount and the time it
11 was originally scanned. So recount images are
12 basically worthless. You have to have the
13 original ballot images.

14 Finally we found that another -- 34 of those
15 counties were incomplete. And by incomplete we
16 mean -- we don't mean that they were only missing
17 a couple of ballot images. They were missing
18 thousands of ballot images.

19 So in a nutshell -- finally one last thing
20 is 13 counties just flat refused to comply with
21 the open records requests. And you have all that
22 information in the little presentation that I
23 just left you.

24 So to wrap up here, what are we asking the
25 board to do? Specifically is to make the rule

1 change that we are proposing here for
2 183-1-12-.13 to conform to federal and state law,
3 make that conform to federal and state law simply
4 by proposing this rule change to retain the
5 memory cards for -- for two years in accordance
6 with existing law, which is not -- the rule is
7 inconsistent with federal and state law.

8 Second thing, I think we should -- what I
9 would ask the board to do is issue a letter of
10 instruction to Michael Barnes since he's still on
11 staff to prevent any further inappropriate advice
12 he's given to counties in regards to the
13 destruction of election records here in the state
14 of Georgia.

15 And then finally what I would ask the board
16 to do is to issue a request to the superior court
17 judges in counties that for all the counties that
18 could not produce the memory cards, which were
19 records of the original ballot images -- ask the
20 courts to release the corresponding ballots that
21 are no longer under the two-year seal. The
22 two-year seal has been up. These are 2020
23 ballots. People still have not seen them, and
24 they -- a lot of these counties have not
25 destroyed them. They've kept them because of all

1 of the controversies in 2020.

2 So we believe that the board would -- is
3 authorized and they could write that letter to
4 the superior court judges in those counties and
5 that the judges would listen to the board because
6 the board has authority for elections in the
7 state of Georgia.

8 So that is all I have and I'm happy to
9 answer any questions if you -- if you have any.

10 **MR. MASHBURN:** Thank you for your
11 presentation, Mr. Favorito.

12 Questions from the board? Okay, your mic is
13 on.

14 **MR. LINDSEY:** Quite frankly as long as we
15 are maintaining the paper ballots, I'm not
16 convinced that we're in violation of the law, but
17 I do -- I do respect your interpretation of it.
18 And so I -- I am curious as to whether you've
19 done any kind of analysis because other states
20 utilize electronic voting as well, including
21 memory cards. Do any of the other states have
22 the same interpretation that you have in terms of
23 the memory cards being something that needs to be
24 retained under federal law?

25 **MR. FAVORITO:** I -- I'm sorry, Ed. I was

1 having trouble with the question. Do any other
2 states have the -- I'm having trouble hearing
3 you.

4 **MR. LINDSEY:** Have -- have accept -- agree
5 with your interpretation of federal law that the
6 memory cards are required to be retained?

7 **MR. FAVORITO:** As far as I know, there is a
8 general consensus that the clear, plain text of
9 federal law means what it says. Of course,
10 Georgia law would not apply.

11 **MR. LINDSEY:** I understand that. But
12 what -- I guess my question is is can you cite to
13 me other states that have interpreted federal law
14 the way you have in terms of the requirement to
15 retain the memory cards? Because I'm not -- I'm
16 not aware of any --

17 **MR. FAVORITO:** I guess I'm not a --

18 **MR. LINDSEY:** (indiscernible) they aren't.
19 I'm just saying I don't know of any.

20 **MR. FAVORITO:** Uh-huh. Yeah, I'm not aware
21 of any state that has interpreted the law
22 differently than the way it's written --

23 **MR. LINDSEY:** Okay.

24 **MR. FAVORITO:** -- which is that the election
25 records have to be retained. They, you know -- I

1 mean, in rec -- we're in the age of electronic
2 election records. So I don't think there's any
3 dispute, based on the national calls I've been
4 on, that the election records -- that statute
5 applies to electronic election records --

6 **MR. LINDSEY:** Yeah.

7 **MR. FAVORITO:** -- as well as the, you know,
8 physical documents and so on.

9 **MR. LINDSEY:** Yeah. Well, certainly before
10 we went to requiring the paper ballot to be
11 printed and retained, the memory cards had a much
12 higher importance. So let me ask you this
13 question. What's the problem with trying to --
14 stick with the memory cards. I hear you in terms
15 of the problem that you were citing and I think
16 that bears a different investigation for a
17 different day in terms of counties retaining the
18 paper ballots, which they're required to do under
19 state law.

20 Put that aside for a minute and let's just
21 sort of stick with this. Assuming that the
22 counties are doing what they are required to do
23 under state law, which is to retain the paper
24 ballots for the time period that's required
25 underneath the law, what's the problem that

1 you're trying to fix here?

2 **MR. FAVORITO:** Well, the first -- the
3 first -- the first problem is that the physical
4 ballots are under seal. The ballot images,
5 according to Georgia law, are available to the
6 public. As you might be familiar, we have spent
7 three years trying to see the 2020 Fulton County
8 ballots. We've actually won our case in the
9 Georgia Supreme Court. They said that we did
10 have standing. And through all this political
11 manipulation and the lower court system, we have
12 still yet to see the ballots from the 2020
13 election after winning the case in the Georgia
14 Supreme Court.

15 **MR. LINDSEY:** I understand your frustration.
16 That has a lot to do with your ability and your
17 interpretation of the law regarding the paper
18 ballots. And I hear you and I respect what
19 you've tried to do there.

20 But I'm trying to figure out how does that
21 fit with the -- how does that fit with retaining
22 the memory cards? Assuming that people are
23 following the law and your interpretation of the
24 law in terms of the paper ballots is held up,
25 which it was held up by the Georgia Supreme

1 Court, you know, what is the -- what is the
2 problem that's going to be fixed by retaining the
3 memory cards?

4 **MR. FAVORITO:** Well, the problem that's
5 going to be fixed -- take the interpretation of
6 the law completely away and then just the flat --
7 isn't it common sense that you would want to
8 retain the memory cards which contain ballot
9 images, audit -- audit logs and cast vote records
10 for a two-year period as all other election
11 records? Regardless of what the law says, isn't
12 that something that the board would want to do
13 and want to request that the counties do just in
14 case other problems come up regardless of what
15 the law says?

16 **MR. LINDSEY:** Like I said, frankly, what I
17 want to see is that the -- the state and the
18 counties follow state law regarding the paper
19 ballot.

20 I thank you for your time. Appreciate it.

21 **MR. MASHBURN:** Member Lindsey yields the
22 floor. Dr. Johnston?

23 **DR. JOHNSTON:** Yes. Is the mic on?

24 **MR. MASHBURN:** You are on.

25 **DR. JOHNSTON:** I'm on? Can you hear me?

1 So I would share with my fellow board member
2 that with regards to elections and election
3 documents that the records have to be retained so
4 that anyone can have access to the legal and
5 properly documented record of who was eligible to
6 vote, who voted, how many ballots were cast, and
7 how many votes were counted. And those
8 documents, whether they're electronic or paper
9 have to be available in some way or form
10 consistently for members of the public. It's
11 just -- it's a -- it's an adherence to the Open
12 Records Act. And I see that if there's
13 difficulty with counties retaining the records,
14 whether it's paper or electronic, there's an
15 issue.

16 And more importantly if there's any question
17 of the conclusion of an election, you -- one must
18 have the records available and accessible for
19 review, whether it's from an election official's
20 viewpoint or from a member of the public, so that
21 all can agree that the results are what they are
22 purported to be.

23 So I think this is -- you know, just follows
24 with basic good recordkeeping and legal
25 recordkeeping. And the Attorney General of

1 Georgia, he addresses compliance with the
2 requirements for records, pertaining to O.C.G.A.
3 50-18-70 through 77, that the records include not
4 only documents and papers but photographs which
5 are on -- on the memory cards and computer-based
6 or -generated information. Well, information
7 includes all metadata.

8 So I think that this is a great amendment
9 to -- to our rule to include the requirement of
10 the retention of the memory cards.

11 And I did a little research and I find the
12 cost of a memory card today, a 16-gigabyte memory
13 card is fourteen to twenty-six dollars. And --
14 but Dominion, I believe, sells the memory cards
15 and rather than getting a volume discount, I
16 think it's a volume upmark in price to \$46.

17 So if -- and if you calculate that for
18 Fulton County for the number of scanners that
19 they have, it would cost -- \$46 for a memory card
20 would cost \$3600 for Fulton County. And for all
21 the memory cards used in scanners on election
22 day, it would cost \$32,000. But they have a
23 budget of 40 million, what's \$32,000? And if you
24 extrapolate that to the entire state, it would be
25 \$300,000 spread out over a hundred and fifty-nine

1 counties.

2 So I don't think it's too great of a
3 financial burden. And, of course, the memory
4 cards can be reused after two years. So you
5 can -- you can apply the old business standard of
6 a grandfather, father, and son. You can have one
7 set of memory cards available for emergencies,
8 have the set that you're using for the current
9 election, and have the retained set in the
10 records.

11 So I would -- I would fully support this and
12 would make a motion to accept the amendment to
13 this rule.

14 **MR. MASHBURN:** Okay. There's been a motion
15 made to accept the rule. Is there a second? Is
16 there a second? Okay, without a second the
17 motion cannot be considered.

18 I have a couple questions and Dr. Johnston
19 might have the answers for these. But, Garland,
20 you can chime in as well. And everybody who
21 knows me and as long as I've been on the board,
22 you know that I'm always worried about unfunded
23 mandates.

24 And so what I want to do is kind of
25 quantify. Dr. Johnston was doing a good job of

1 this already. So she might've already done this
2 work. But tell me how many cards do we use
3 statewide for an average presidential election?
4 Do we know?

5 **MR. FAVORITO:** I would have to be
6 speculating. I would have to just guess. And my
7 guess would be around 30,000. I'm -- I'm not
8 sure.

9 **DR. JOHNSTON:** You're close.

10 **MR. MASHBURN:** 30,000? Dr. Johnston?

11 **DR. JOHNSTON:** I would say that's close.

12 **MR. MASHBURN:** Okay. So thirty -- we're
13 doing -- 30,000. Okay. And how many memory
14 cards are used in an average off-year election?
15 Do we know?

16 **DR. JOHNSTON:** Don't know.

17 **MR. MASHBURN:** Ballpark estimate?

18 **DR. JOHNSTON:** Don't know.

19 **MR. MASHBURN:** Probably less.

20 **MR. FAVORITO:** Not -- not very many.

21 **MR. MASHBURN:** Probably less or maybe the
22 same. So --

23 **MR. FAVORITO:** No. It'd be dramatically
24 less.

25 **MR. MASHBURN:** Okay. And so, Dr. Johnston,

1 is your 300,000 based on that 30,000? Or ...

2 **DR. JOHNSTON:** Yes.

3 **MR. MASHBURN:** That would be -- that would
4 be ten apiece, right?

5 **DR. JOHNSTON:** That would be \$46, Dominion
6 price. Dominion markup.

7 Now, one should know that the next
8 generation of scanners that Dominion plans to use
9 will use SD cards and not compact flashcards.
10 And they currently use 16-gigabyte compact
11 flashcards which is -- it's hard to find one
12 because flashcards today and SD cards are vastly
13 larger, more -- more capable of storing much more
14 information and are faster.

15 So I think we should expect better
16 performance. It depends on the performance of
17 the host device also. So the quality of the host
18 device makes a difference on the scanning
19 properties.

20 **MR. MASHBURN:** Okay. Thank you. Thank you
21 for that. So there's been a motion made to
22 accept the rule. It was not seconded so it could
23 not be considered. Is there a counter?

24 **MR. LINDSEY:** Well, let me first explain
25 why -- I do understand your point and it sounds

1 to me, Mr. Favorito, like most of your complaint
2 is regarding the retention of the paper ballots
3 in the proper following of Georgia law. And that
4 needs to be our focus rather than a duplicate
5 document -- a duplicate source of the memory
6 cards. And so that's -- that's where I think
7 that really the focus could be. So therefore I
8 would move that -- that this -- this rule change
9 be -- be denied at this time.

10 **UNIDENTIFIED SPEAKER:** Chairman, point of
11 order. I'm not able to hear (indiscernible).

12 **MR. LINDSEY:** I'm sorry. I'm sorry, sir.
13 I'm a little too relaxed here. My apologies. My
14 apologies.

15 I'm going to vote to deny --

16 **MR. MASHBURN:** I think there's going to
17 be --

18 **MR. LINDSEY:** -- because I think that the
19 issue here as raised by Mr. Favorito that needs
20 to be looked at is the following of state law
21 regarding the paper ballots. That's the problem
22 if there is a problem.

23 And so I think this is sort of an end
24 around, but if folks are having a difficult time
25 retaining paper ballots, they're going to

1 probably do the same problem with electronic. So
2 let's try to clean up this -- if a problem does
3 exist, that we focus on the retention issue with
4 the paper ballots which we have made such a hard
5 effort to get to in 2020.

6 **MR. MASHBURN:** Okay. There's -- there's
7 been a motion to reject the petition. I second
8 the motion. Is there discussion?

9 **DR. JOHNSTON:** Yes. I would like to make a
10 point that election documents must be available
11 for review by anyone. And the paper ballots are
12 not available for review. So one must rely on
13 the electronic documents that should be retained
14 and made available, and they just have not been.
15 The election offices are failing in saving what
16 is legally required for them to retain.

17 **MR. LINDSEY:** I understand your point, but
18 that gets back to mine, which is the problem is
19 the -- is what to do with the paper ballots.

20 **MR. MASHBURN:** Any further discussion?
21 Okay, we'll vote in, again, reverse chronological
22 order of seniority. So Dr. Johnston gets to go
23 first.

24 Dr. Johnston? On the motion to reject the
25 petition.

1 **DR. JOHNSTON:** I vote nay.

2 **MR. MASHBURN:** Dr. Johnston votes nay.

3 On the motion to reject the petition, how
4 say you, Mr. Lindsey?

5 **MR. LINDSEY:** Aye.

6 **MR. MASHBURN:** Mr. Lindsey votes aye.

7 I vote aye. The motion to reject carries 2
8 to 1.

9 Thank you for your presentation,
10 Mr. Garland -- Favorito.

11 **MR. FAVORITO:** Thank you for the time.

12 **MR. MASHBURN:** We appreciate you, all the
13 hard work that you do.

14 **Petition for Amendment of Rule of State**

15 **Election Board - Marilyn Marks -**

16 **183-1-12-.11 Conducting Elections**

17 **MR. MASHBURN:** Okay. The next -- order
18 please. The next matter we have for
19 consideration are petitions for amendment to the
20 rule from Marilyn Marks. You gave me an order
21 that you wanted to present them in. I don't know
22 if it's the same as on my agenda or not.

23 **MS. MARKS:** The agenda is better to me.
24 Whatever the board would prefer.

25 **MR. MASHBURN:** Okay. So whatever is your

1 pleasure.

2 **MS. MARKS:** Okay, great.

3 **MR. MASHBURN:** Dealer's -- dealer's choice.

4 We'll let you -- we'll let you pick which one.

5 **MS. MARKS:** We'll start with -- well, I
6 don't know whether it's the hard one but maybe
7 the most repetitive one -- ballot secrecy. Let's
8 do that.

9 And I'm splitting my time today with
10 Ms. Jeanne Dufort --

11 **MR. MASHBURN:** Okay. Just for the --

12 **MS. MARKS:** -- our co-petitioner.

13 **MR. MASHBURN:** Just -- just for the board's
14 record, that one is going to be on tab 50. We
15 have labeled it on the agenda as conducting
16 elections.

17 Okay. Is the board -- everybody -- the
18 board ready?

19 **DR. JOHNSTON:** Uh-huh.

20 **MR. MASHBURN:** Okay. Board ready?

21 **MR. LINDSEY:** Yeah.

22 **MR. MASHBURN:** Okay. Thank you.

23 Please proceed.

24 **MS. MARKS:** Thank you, Mr. Chair and members
25 of the board. Thank you so much for letting us

1 present today. I'm Marilyn Marks, director of
2 Coalition for Good Governance.

3 You're familiar with both petitions that we
4 will be presenting today: ballot secrecy as well
5 as logic and accuracy, compliance, rulemaking
6 petitions. We've been here before. We've
7 tweaked slightly the last rulemaking petition
8 that we put before you at the October meeting.
9 So I won't go through all of the rationale for
10 why we need secret ballots, why we have a
11 violation today. You all are very familiar with
12 that.

13 But as we start this discussion again, we
14 should remind ourselves that across all modern
15 democracies in the world, the right to vote a
16 secret ballot is considered a human right in
17 international treaties. Our nation's foreign
18 relations laws say that governments that are
19 elected without protected ballot secrecy are not
20 to be considered democratic nations.

21 We all know it is a hard-won right to
22 protect every voter in the country, every voter
23 in Georgia. But Georgia has stripped away that
24 right not by law, but by permitting the Secretary
25 of State to adopt and deploy a voting system that

1 violates a host of laws.

2 But this board has not felt compelled to
3 return that right to Georgia voters by simply
4 making rules to enforce Georgia and federal laws.

5 The U.S. Supreme Court has recognized the
6 right to a secret ballot as a fundamental right.
7 Federal HAVA laws require secret ballots and the
8 state constitution requires it. Your own rules
9 acknowledge the importance of the secret ballot.
10 In fact, your own rules state that it is a
11 constitutional right. But somehow the board
12 seems to be taking the view: Never mind all those
13 superior laws or the Constitution or what the
14 Georgia statutes require in absolute ballot
15 secrecy; we want to merely comply with a small
16 portion of 21 -- 21-2-300, requiring BMD ballots
17 and ignoring the conditions of that law.

18 That BMD use law is certainly not
19 unconditional, but it is in the way it's being
20 interpreted by -- interpreted by this board.
21 Ballot secrecy is an urgent matter that needs to
22 be taken up right away as -- and voters need to
23 be protected. As we head into probably the most
24 contentious election in our lifetimes, we all
25 know voters who don't really like one candidate

1 or the other of the likely presidential
2 candidates in 2024, but they feel pressured by
3 family or bosses at work or their pastor or their
4 landlord to vote for a particular candidate. But
5 they cannot vote their conscience in Georgia
6 because of the unconstitutional voting process
7 that essentially requires them to publicly
8 display their votes where their pastor, their
9 boss, their controlling spouse may see it.

10 There's no doubt that some authority figures
11 are abusing the illegal system of voting in
12 Georgia right now. This board is duty-bound to
13 stop the illegal voting method because -- not
14 only because it's illegal, but it is immoral to
15 force people to vote in public.

16 At the October 3rd board meeting, you told
17 us that the board needed to study this ballot
18 secrecy issue some more. That was also the
19 board's response in February 2020 when we asked
20 you to make the same rule changes. Any study
21 would've revealed that four years of voting
22 experience has found no method of effectively
23 shielding voters' votes on the touch screen.

24 At the last meeting you said there are other
25 ways to ensure ballot secrecy. Whatever they

1 are, they need to be adopted today. We implore
2 you to act to adopt those methods before the 2024
3 election cycle. You've acknowledged your
4 const -- the constitutional right to vote a
5 secret ballot in adopted rules as recently as
6 2021 when you were adopting rules for the early
7 processing of mail ballots. Yet the board
8 continues to deny our repeated petitions for
9 rules to vindicate and protect that
10 constitutional right.

11 And the board's position seems to be that it
12 cannot adopt regulations counter to the statute.
13 But the statute certainly requires ballot
14 secrecy. The rationale seems to be: We will
15 allow unconstitutional conditions to exist on
16 voting because the Secretary of State chose a
17 system that violates Georgia Constitution,
18 federal law, and Georgia statutes; we will just
19 adopt whatever he chose to buy.

20 The Dominion touch screens certainly failed
21 to meet the conditions of law. The law
22 authorizing the BMD touch screens is conditional.
23 They have to meet a host of mandatory statutory
24 conditions, ballot secrecy being one. But the
25 system does not meet those laws. We beg you to

1 stop this anti-democratic violation of Georgia
2 law.

3 At the October meeting, you expressed that
4 you only had two options with our proposed rule:
5 to accept it word for word, comma for comma, or
6 decline to adopt that rule for rule into -- or to
7 decline to adopt that rule for rulemaking
8 process.

9 We thought we were clear at the last board
10 meeting in encouraging this board to suggest
11 amendments if there were any amendments that you
12 thought were appropriate that could certainly be
13 proposed. We are here, ready to take live
14 amendments and are, you know, ready to agree with
15 them if they're friendly amendments.

16 So we don't say that you need to adopt our
17 rule as proposed, word by word, comma by comma.
18 We're looking to protect the voter's right to
19 ballot secrecy. And it cries out for resolution
20 before this contentious 2024 election cycle
21 begins. Not more study, not more deflection of
22 the problem with the false notion that current
23 law requires touch screens regardless of their
24 violation of a host of federal and state laws.

25 So from there if you have some questions

1 about our proposed rule on ballot secrecy, I'm --
2 I'm happy to take that now. We tried to -- we
3 tried to modify it just a bit to address the
4 questions that you had last time in taking
5 decision-making about ballot secrecy out of the
6 emergency realm.

7 And that was a concern, I believe, Chairman
8 Mashburn, you -- you had last time. You were
9 concerned that somebody would be trying to do
10 that at the polling place.

11 **MR. MASHBURN:** Yeah, and indeed that was
12 what I was about to ask is can you take us
13 through the changes that you've made? Can you
14 highlight those for us, please?

15 **MS. MARKS:** Okay. We -- we got rid of the
16 notion in 2(c) -- we got rid of the notion of
17 emergency situation. And we're just saying
18 that -- and, of course, emergency situation is
19 the creation -- it's a creature of this board's
20 rulemaking. It doesn't exist in the statute.

21 The statute that -- that speaks to when you
22 have an impossible or impracticable situation is
23 not at all related to an emergency. And, in
24 fact, the very example given in the statute is
25 one that wasn't an emergency at all. And that is

1 when there were more candidates that would --
2 than would fit on the ballot, the mechanical
3 ballot. And they said, Okay, you've got to go to
4 a hand-marked paper ballot. And, you know, that
5 was well understood long before -- long before
6 the election.

7 The other -- a change that we also made in
8 (c) is to make it clear that if a -- if it is
9 legally impossible or impracticable to use the
10 touch screen or the voting system, that -- that
11 that clearly is permitted to -- as an
12 impossibility so that you do go to hand-marked
13 paper ballots.

14 I know that some members of this board
15 previously have taken the position that you must
16 use touch screens so long as they are physically
17 operating. Doesn't matter if they're operating
18 accurately but so long as they're physically
19 operating, you've got to use them. That --
20 that's really -- that ends up with an absurd
21 result, of course.

22 And we're saying let's make it clear. If
23 they're legally, functionally, or physically
24 impossible for use, go to hand-marked paper
25 ballots; that the determination of an emergency

1 should be at the discretion of the board, the
2 election superintendent as we talked about
3 before, or you had asked previously about the
4 word "official designee."

5 I think we're consistent in saying --
6 consistent with other rulemaking in saying that
7 the official designee of the county board should
8 be someone like an election supervisor, an
9 official, not the random guy that wandered out of
10 the bar last night and into the polling place.

11 **MR. MASHBURN:** I don't mean to interrupt you
12 but just to have a dialogue with you, what about
13 a poll manager?

14 **MS. MARKS:** I think the -- a poll manager in
15 an emergency situation makes sense but probably
16 not in a nonemergency situation. That's the way
17 we've tried to write it. Generally, Mr. Chair,
18 what we've seen is when the rules require a
19 designee, it's often -- it's a typical use that
20 this county election board's designee is the
21 election supervisor for a host of things, whether
22 it's accepting a complaint that comes in and
23 signing for the board or conducting the logic and
24 accuracy test that the official designee is doing
25 it, while the statutes themselves tend to call

1 for the superintendent to do it. But we don't
2 expect the superintendent to be the hands-on
3 manager.

4 **MR. MASHBURN:** Because I remember the
5 dialogue that we had previously and I appreciate
6 you addressing it. And the issue still in my
7 mind is one of the worst things you could
8 possibly have in an election is for something to
9 change while the election's going on.

10 And so I've always been concerned and I'm
11 always concerned that we -- that everybody
12 thought that this is the way it was going to be
13 the day before the election, and on the day of
14 the election something changes. And that's just
15 catastrophic. So tell me how your --

16 **MS. MARKS:** Well, that's not what we're --

17 **MR. MASHBURN:** Tell me -- tell me how your
18 proposal does not create a problem where I've got
19 different precincts all throughout the state of
20 Georgia making decisions.

21 **MS. MARKS:** Because again we're having --
22 we're asking the superintendent, which is
23 generally going to be the election board, right?
24 They're meeting in public session. They don't
25 meet suddenly, you know, at a precinct at

1 10:00 on election day. They are making their
2 decisions ahead of time. And -- but generally
3 they have an official designee to handle a lot of
4 the managerial decision-making. And that's --

5 **MR. MASHBURN:** So --

6 **MS. MARKS:** And that is their election
7 supervisor.

8 **MR. MASHBURN:** So under your proposal today,
9 what's the last day before the election that this
10 decision can be made? What's the -- what's the
11 final cutoff for making this decision?

12 **MS. MARKS:** We certainly don't have a magic
13 date because boards meet at different intervals,
14 but presumably it would be the last board meeting
15 of that county board before voting goes into
16 place where -- goes into effect where this might
17 be effective, whether that's early voting or
18 election day voting.

19 Yeah? You want ...

20 Yeah. Jeanne says that she has an answer.

21 **MR. MASHBURN:** Okay, sure.

22 **MS. DUFORT:** It's addressed in my remarks
23 which I haven't delivered yet.

24 **MR. MASHBURN:** Either --

25 **MS. DUFORT:** But I have watched a lot of the

1 practical cycle of --

2 **MR. MASHBURN:** Let's -- let's let you get to
3 a microphone --

4 **MS. MARKS:** Here.

5 **MR. MASHBURN:** -- one way or the other so
6 that the court reporter can take it down.

7 **MS. DUFORT:** So I'll come back to my
8 prepared remarks later.

9 **MR. MASHBURN:** I get -- I get -- I get
10 yelled at if somebody talks without a microphone,
11 so ...

12 **MS. DUFORT:** Okay. And I'm Jeanne Dufort,
13 the first vice chair of the Morgan County
14 Democratic Committee, and I have been engaged in
15 the local cycle of how you prepare for elections.

16 So your question about what the last day is
17 is a useful but not practical question. In fact,
18 being ready for election day is -- is not an
19 impulse based set of activities. It is a
20 planning based set of activities.

21 So the process of determining polling setup
22 happens well in advance. The -- a large number
23 of counties rely on actual planograms. They may
24 be informal, sketched out on paper. Sometimes
25 those papers don't exist if a polling place has

1 been used for enough time that, quote, everybody
2 knows how it's going to be set up. But when a
3 piece of equipment is designated to go to a
4 polling place -- Right? -- there's a lot of
5 process behind that.

6 So in order to put this rule into place,
7 which we're recommending, it requires a local
8 understanding of all of the twenty-two-odd
9 hundred different shapes and sizes, from those
10 cinderblock buildings in south Georgia -- that,
11 you know, that -- you know, that they are, right?
12 You've visit them -- to State Farm arena.

13 There is not a one-size-fits-all when it
14 comes to polling places. So local knowledge --
15 what I can do, what are my sight lines? Where
16 are my doors and windows -- all these things go
17 into preserving ballot secrecy as you've seen
18 from the pictures we provided to you, right?

19 So it is literally not the case you can make
20 a one-size-fits-all rule that has to be. And our
21 rule designates that to the local person who
22 knows their polling places.

23 So here's what they have to do. They have
24 to assess it for each and every polling place.
25 How many of these can I set up, protecting

1 absolute ballot secrecy, considering windows,
2 shape, size, number of polling stations I'm
3 required to have? Right? And they make
4 decisions.

5 The -- practically speaking, it will not be
6 the knowledge of the local election board, it
7 will be the knowledge of the local election
8 superintendent. They're the ones -- the
9 administrator -- who makes those decisions --
10 supervisor -- in consultation in a big county
11 with their team.

12 So, for example, Athens, with a hundred
13 thousandish voters, they've got Lisa who's been
14 doing this for a while. She isn't their election
15 director but she's the person who does all this
16 stuff, figures out how it's going to be set up
17 for each and every polling place. So there's a
18 plan.

19 Now, once you have the plan, you've got to
20 figure out what machines have to be logic and
21 accuracy tested for which ballot styles, right?
22 That's part of the plan. How many ballots do I
23 have to order? Right now they have to order
24 enough for mail ballots plus to meet your
25 10 percent rule for emergency paper ballots. So

1 now they're going to have to look at the order.
2 If this -- XYZ precincts need stations set up for
3 hand-marked paper ballots, they're going to need
4 more ballots, right? So there's a series of
5 plans. This will not be an impulse decision.

6 But I can tell you an anecdote that I
7 personally observed of why a poll manager should
8 not be prohibited from responding to the absolute
9 requirement of preserving ballot secrecy.

10 I arrived to poll watch at one of our fairly
11 small polling places. The station setup for
12 people who need wheelchair access -- Right? --
13 the accessibility station, was sitting there
14 facing the three chairs allocated for poll
15 watchers. The only place available in the room
16 for us to sit.

17 So we were sitting where we were told to sit
18 and where we were supposed to sit. The station
19 was mostly not being used and then a voter came
20 in. And we looked with horror -- I mean, this
21 BMD screen was closer to me than Dr. Johnston is
22 close to me, staring straight at the three of us.
23 The three of us looked at one another and we're,
24 like, horrified. We're like this (indicating),
25 whatever. The poll manager observed it.

1 Okay, voter leaves. She turns around and
2 immediately comes and turns it in another
3 direction. There were only two possible ways to
4 turn it and retain wheelchair access, right? So
5 she turned it. We couldn't see it anymore. But
6 she stepped back and realized every voter
7 standing in line to enter the room could now see
8 it. So she turned it back and told us, Don't
9 look.

10 But -- but that is both an example of how
11 difficult it is in practice to protect ballot
12 secrecy. But why you would want a poll manager
13 who walks in a room and decides despite what we
14 planned on paper, this isn't working, to be
15 further instructed to do her best to protect
16 ballot secrecy because that is the only rule that
17 is covered by the state constitution and the
18 federal Constitution and the law, right? That
19 cannot be subrogated to other things.

20 Does that -- that makes -- it's a
21 long-winded answer, but does that make sense?

22 **MR. MASHBURN:** I appreciate your answer.

23 **MS. MARKS:** And I just -- I just want to
24 make the point about the -- we definitely need to
25 keep emergency decision-making related to other

1 issues. The poll manager comes in and -- and the
2 pipes have bursts and the touch screens are
3 flooded. She doesn't need to have to convene a
4 board meeting to try to deal with that.

5 So you do need emergency operations to be
6 done on the spot, live when something happens.
7 We were trying not to get rid of that, but at the
8 same time, permit hand-marked paper ballots to be
9 used under that same statute for ballot secrecy.
10 Hope -- hopefully that's clear.

11 **MR. MASHBURN:** Thank you. I appreciate
12 that. Are you -- did I interrupt your
13 presentation? So you're still going?

14 **MS. MARKS:** No, no --

15 **MR. MASHBURN:** Or we ready --

16 **MS. MARKS:** -- you asked --

17 **MR. MASHBURN:** -- for board questions?

18 **MS. MARKS:** No, no. I was done with the
19 presentation.

20 **MR. MASHBURN:** Okay.

21 **MS. MARKS:** And I asked you for questions.

22 **MR. MASHBURN:** Very good.

23 **MS. MARKS:** And you asked me about the --
24 the rule here. So --

25 **MR. MASHBURN:** Very good. Wanted to give

1 you a chance to finish before I turned it over to
2 the board.

3 **MS. MARKS:** Okay. Are any other -- any
4 other questions for me?

5 **MR. MASHBURN:** Exactly. Questions from the
6 board?

7 **DR. JOHNSTON:** Yes.

8 **MR. MASHBURN:** Dr. --

9 **MS. MARKS:** Was that a yes or a no?

10 **DR. JOHNSTON:** Go ahead. Go ahead.

11 **MR. MASHBURN:** Dr. Johnston has the floor.

12 **DR. JOHNSTON:** Thank you.

13 **MS. MARKS:** Okay.

14 **DR. JOHNSTON:** So, Ms. Marks or Ms. Dufort,
15 either one, I like the dedication to ballot
16 secrecy and the positioning of the BMDs. In
17 looking at your proposal, the -- the distance
18 requirements between one BMD touch screen and
19 another of 8 feet would automatically disqualify
20 anyone using the Runbeck hubs that are used
21 throughout many of the counties now because they
22 have two or four BMDs that are less than 8 feet
23 between. So some consideration of that would be
24 an automatic disqualification or a reversion to
25 hand-marked paper ballots if you followed this

1 rule.

2 MS. MARKS: May I address that?

3 DR. JOHNSTON: Sure.

4 MS. MARKS: Okay. What we were trying to
5 say -- no, we don't love those hubs for lots of
6 reasons. You're talking about what Fulton County
7 and Cobb County have, the big rectangular boxes.

8 DR. JOHNSTON: Right.

9 MS. MARKS: Right? Okay.

10 DR. JOHNSTON: I am.

11 MS. MARKS: And, you know, what we were
12 saying was 8 feet between the center of adjacent
13 touch screens. And I'm not sure that we would
14 think of -- you know how they are on each side?
15 That we were thinking of those as adjacent touch
16 screens.

17 DR. JOHNSTON: Right. Well, what -- the
18 larger hub that is made by Runbeck -- that's used
19 in Fulton County -- has two BMD screens next to
20 each other --

21 MS. MARKS: And in that --

22 DR. JOHNSTON: -- probably not 4 feet apart.
23 So it would be an automatic --

24 MS. MARKS: Correct.

25 DR. JOHNSTON: -- automatic

1 disqualification.

2 **MS. MARKS:** Correct. One of those -- one of
3 those would be down one. But the two -- the two
4 on -- one of these would be -- yeah.

5 **DR. JOHNSTON:** Okay. The other issue --
6 question, not issue but question, is the
7 restriction of 30 feet for an individual to -- to
8 walk in front of a BMD while someone is voting?
9 Positioning --

10 **MS. MARKS:** I guess you would call it
11 behind.

12 **DR. JOHNSTON:** Behind? Or behind?

13 **MS. MARKS:** Yeah.

14 **DR. JOHNSTON:** Yes? There are polling
15 places that are -- that are contained in a room
16 that is less than 30 feet.

17 **MS. MARKS:** Exactly. And it's a problem we
18 need to acknowledge.

19 **DR. JOHNSTON:** So the entire polling place
20 would be disqualified for use.

21 **MS. MARKS:** I don't think so. No, no.
22 We're talking about we don't -- we're suggesting
23 that no one be able to walk behind the voter
24 voting, right? But within 30 feet.

25 So in -- take those small polling places,

1 many in rural areas, what we would envision is
2 that you would have one touch screen facing every
3 corner so that you would have at least four touch
4 screens there. The voter would have his back to
5 the corner and then you're right, it's impossible
6 to put any more.

7 That's why we would say then the -- most of
8 your voting stations would be hand-marked
9 voting -- a hand-marked paper ballot. But the
10 idea would be nobody could walk behind me if I'm
11 the voter, have my back to the corner.

12 **DR. JOHNSTON:** I see. And the third
13 distance parameter that's -- that you've added is
14 no such officer may -- may not stand within
15 6 feet of the polling place scanner during
16 operation by a voter.

17 I'm going to say that practically speaking,
18 Ms. Dufort, so many voters need assistance or
19 questions or have difficulty or think they will
20 have difficulty inserting their ballot into a
21 scanner, that it would automatically disqualify
22 this rule.

23 **MS. MARKS:** Two -- well, there are two
24 answers to that. One, your person who's
25 stationed to watch the scanner, have them stay

1 more than 6 feet away and only approach when a
2 voter needs it. But the other thing that -- that
3 most states do for scanners -- and, in fact,
4 we've got some counties in Georgia that do it,
5 and that is create a ballot secrecy folder,
6 envelope and --

7 **DR. JOHNSTON:** Exactly.

8 **MS. MARKS:** -- all it is if you think about
9 it is a manila folder cut -- with a little inch
10 of it cut off. You put your ballot in that. You
11 hold that folder that's -- with the tab of the
12 ballot sticking out at the top and -- and it
13 feeds it into the scanner.

14 **DR. JOHNSTON:** I like that suggestion.
15 Florida uses that and it's very effective. And
16 --

17 **MS. MARKS:** Very typical.

18 **DR. JOHNSTON:** -- and acknowledges the
19 respect that a ballot deserves for secret ballot
20 voting.

21 **MS. MARKS:** Right.

22 **DR. JOHNSTON:** All right. Another question.
23 Just a logistics question. So you have the
24 ballot secrecy rearranged voting hubs or BMDs and
25 now the line is too long. It's 30 minutes and

1 there's a -- there is a desire to resort to or
2 revert to hand-marked paper ballots.

3 In early voting in Fulton County that has
4 360 precincts thereabouts and over -- and a
5 thousand ballot styles, in early voting I have a
6 hard time imagining the logistics of having that
7 many ballots, paper ballots, available for use.
8 So it would require at least a ballot-on-demand
9 printer in every early voting site or packs of
10 preprinted ballots because you have to maintain
11 the proper precinct for each person that's
12 voting.

13 **MS. MARKS:** Correct. Okay. So thank you
14 for -- for both of those questions. What we
15 would envision, going back to -- we would -- we
16 don't want to see the lines back up and say, Oh,
17 okay, now we have to go to -- to paper ballots.

18 We would want to see the setup with voting
19 stations anticipate that -- that the majority of
20 voting is going to take place with hand-marked
21 paper ballots. And so it would all be set up a
22 head of time. We wouldn't wait until the lines
23 backed up.

24 But in terms of the paper ballot style
25 management, absolutely. You are going to need to

1 be able to have ballots available for every
2 ballot style. And Fulton County would be the
3 biggest challenge. But states and municipalities
4 do this all over the nation.

5 But when you look at -- it's been a while
6 since we've done it, but we did some quick and
7 dirty numbers on Fulton and looked at the various
8 early voting locations in Fulton. We determined
9 that basically in almost all of them, with 20
10 ballot styles, you could take care of 70 percent
11 of your voters because people tend to vote at the
12 same voting location in early voting year after
13 year, either where they work, where they live.
14 It's quite predictable that the top 20 ballot
15 styles, about 70 percent of your voters then have
16 ballot-on-demand printers, which are not nearly
17 as fancy as they sound like, for your one-off if
18 you've got an Alpharetta voter that's voting down
19 near the airport, which is going to be rare, but
20 you still need to accommodate them.

21 And Dominion has a laptop ballot-on-demand
22 application that can just be hooked up to a cheap
23 Office Depot printer and create ballot-on-demand
24 with an official ballot created by the Dominion
25 program on the spot. This is not new technology.

1 This is already purchased by the state and it's
2 in the system.

3 **DR. JOHNSTON:** Correct. They use an HP
4 printer that's about this big now (indicating)
5 for ballot-on-demand printing. I think it costs
6 about 900 --

7 **MS. MARKS:** With the Dominion markup --

8 **DR. JOHNSTON:** It may -- oh, maybe 3,000 for
9 the Dominion markup. And it would require for a
10 county like Fulton County to have probably 35,
11 one for each early voting site and other counties
12 that have fewer voting sites, but they would need
13 a ballot-on-demand printer and they would need --
14 and that would be an additional recordkeeping and
15 accounting of how many ballots are printed off of
16 those ballot-on-demand printers. There has to be
17 documentation --

18 **MS. MARKS:** Yes.

19 **DR. JOHNSTON:** -- and recording of -- of
20 such actions.

21 **MS. MARKS:** Right. And -- and -- and
22 that's -- you know, other states have learned how
23 to do that long ago. But not only that, but the
24 amount of money you would save by not having the
25 plethora -- the 35,000 very much more expensive

1 touch screens to set up, test, transport, secure,
2 et cetera. You would end up saving so much more
3 money. You could -- you could buy a new HP
4 printer for every election and toss the old one
5 in the landfill and still save money.

6 **DR. JOHNSTON:** Okay. I yield the floor.

7 **MR. MASHBURN:** Dr. Johnston yields the
8 floor.

9 Board member Lindsey?

10 **MR. LINDSEY:** Just a -- just a couple of
11 quick. In addition to the practical --

12 **MS. MARKS:** Mr. Lindsey? Mr. Lindsey, we
13 can't quite hear you.

14 **MR. LINDSEY:** In addition to the practical
15 concerns that Dr. Johnston raised, just a couple
16 of points of clarification. Number one, the
17 argument that we have or that we ever have
18 ignored the right to a secret ballot because of
19 electronic voting is patently false.

20 We have a strict rule that requires
21 private -- that -- of secret ballots. We have a
22 state law that requires secret ballots. We have
23 admonished counties when we -- when a complaint
24 has been raised about secret ballots, about the
25 positioning of electronic machines not affording

1 people with secret ballots. As a matter of fact,
2 y'all were at the last hearing when we did just
3 that.

4 **MS. MARKS:** But it didn't work. That was
5 the problem.

6 **MR. LINDSEY:** And -- well, it didn't in that
7 situation. And we took corrective action,
8 telling them to stop.

9 **MS. MARKS:** Then the corrective action
10 didn't work.

11 **MR. LINDSEY:** No. Well, we don't know that
12 yet. We don't know that.

13 **MS. MARKS:** We do.

14 **MR. LINDSEY:** Well, we -- they haven't had a
15 vote since then. So we don't know that. So
16 right now what we have is a strict law to -- a
17 strict law that requires secret ballots.

18 We also have a requirement by the state that
19 you -- that you have -- that you conduct your
20 votes by electronic. That sets a clear mandate
21 to the local governments -- to the county
22 governments to -- to operate your electric
23 ballots, electronic ballots, in a way that
24 protects people's secrecy.

25 You -- you made a point of going, well, we'd

1 take -- take a look and see whether or not other
2 things need to be done. I have taken a look.
3 Quite frankly I like that strict prohibition.
4 There is no exceptions. There's no way to get
5 out of the use of electronic ballots by using a,
6 Well, we've got to do privacy.

7 No. If you've got to -- if you -- the state
8 has mandated electronic. The state has mandated
9 private, secret ballot. So you've got to conform
10 to that, period. And they've got time to do so.
11 So for that reason, I think that that clear line
12 of demarcation, which I believe is being watered
13 down by your proposed rule change, is -- is
14 something that -- that is disappointing.

15 And so that's why I have some concerns with
16 that from a policy standpoint, in addition to
17 some of the practical concerns raised by
18 Dr. Johnston. And please feel free to respond.

19 **MS. MARKS:** So, Mr. Lindsey, we don't -- we
20 don't understand how you can do both. We have
21 never seen it work in Georgia. We've gone
22 through four years now. No one, no county has
23 been able to both protect ballots secrecy and use
24 the touch screens.

25 And, you know, I would respectfully

1 disagree. The law does not say you will
2 conditionally use touch screens.

3 **MR. LINDSEY:** I didn't say that.

4 **MS. MARKS:** Because you will -- you will use
5 touch screens that protect the absolute secrecy
6 of the ballot --

7 **MR. LINDSEY:** And I agree with you.

8 **MS. MARKS:** -- when we don't have those.

9 **MR. LINDSEY:** And I agree with you. And
10 that's -- and that's something for the Secretary
11 of State to deal with and something for the local
12 counties to deal with. But right now we've got a
13 strict rule that -- involving both and you're
14 absolutely right.

15 But right now it's up to them to come up
16 with the -- we've given them discretion on how
17 they do it because different counties are
18 different, different configurations, and
19 precincts are different. And so we've got to
20 give folks a certain amount of leeway as long as
21 they recognize the importance of --

22 **MS. MARKS:** We -- we would re --

23 **MR. LINDSEY:** -- a secret -- hold on. As
24 long as they recognize a secret ballot. Now,
25 please.

1 **MS. MARKS:** We would respectfully disagree
2 that people have got leeway on whether or not to
3 protect the constitutional right to ballot
4 secrecy.

5 **MR. LINDSEY:** Actually, I've said just the
6 opposite. They don't have any leeway.

7 **MS. MARKS:** Right. But they -- if they
8 absolutely, physically cannot use the touch
9 screens, and that is -- in most situations the
10 rooms are not big enough, they can't do it, then
11 it is impossible, impracticable, and --

12 **MR. LINDSEY:** Then they need to get another
13 room or they need to get another precinct. Then
14 they need to change --

15 **MS. MARKS:** Not everybody can -- can use a
16 State Farm arena.

17 **MR. LINDSEY:** (indiscernible)

18 **MS. MARKS:** It is impract -- I mean, the
19 idea of saying we're going to take -- make these
20 counties go get enormous gymnasiums for every
21 precinct in order to accommodate our noncompliant
22 touch screens is -- is not what the law presumes.
23 And so --

24 **MR. LINDSEY:** No. What the law presumes is
25 that -- is that you find a location that also

1 meets the requirements of --

2 **MS. MARKS:** It is -- no. No.

3 **MR. LINDSEY:** -- of a secret ballot.

4 **MS. MARKS:** It certainly --

5 **MR. LINDSEY:** I'm sorry, but that's --
6 that's what the law presently requires. And if a
7 county is not doing that, that's another issue
8 altogether.

9 **MS. MARKS:** That -- that would seem to take
10 things to an extreme and absurd place. There are
11 many counties that don't have a single public
12 building that would accommodate. And we've -- we
13 go to rural counties all the time and see their
14 precinct facilities. And many of the counties
15 wouldn't even have a single building that would
16 accommodate a number of voters and the machines.
17 And to say, Well, you need to build new buildings
18 to accommodate these machines because they don't
19 comply with basic rules ...

20 Now, I -- you know, Ms. Dufort and I were --
21 were sharing the presentation time. And we
22 haven't let her do her presentation. Shall I
23 stand aside a minute and --

24 **MR. LINDSEY:** Please do. Please do. I'm
25 sorry, I didn't realize that -- I wouldn't have

1 even started if you hadn't -- hadn't --

2 **UNIDENTIFIED SPEAKER:** Sit right here.

3 **MR. LINDSEY:** My apologies.

4 **MR. MASHBURN:** Absolutely. Make yourself
5 comfortable.

6 **MS. DUFORT:** That's okay. And although
7 Marilyn and I are good friends, I am standing
8 here before you representing the Morgan County
9 Democratic Committee.

10 Thank you, George.

11 All right. I just have to say, wishing
12 something is so does not make it so. So you are
13 right. There are absolutely clear laws about
14 protecting ballot secrecy. And you are right,
15 there is a law that says use these ballot-marking
16 devices for in-person voting as long as they
17 comply with all other laws.

18 In your -- in your October letter declining
19 it, you said, point two, we already have rules,
20 no addition rules are necessary. I'm guessing
21 maybe you were the draftee of that because that
22 is the position you're taking today. But there
23 is a trove of evidence before you in our
24 petition, in the filings in federal court that
25 violations of ballot secrecy are routine across

1 the state and continuing, right?

2 Because I represent a rural Georgia county,
3 I am going to take the position that we don't
4 have lawbreakers as our election directors across
5 the state. We have seen them try hard. We have
6 seen counties like Fulton spend millions of
7 dollars in this effort to figure out how to meet
8 the rule -- Right? -- these rules that are out
9 here.

10 They have not -- it's not because they have
11 not tried, but there is a part of this for which
12 this board -- I'll say this board because you are
13 the -- you are the current caretakers of the
14 board, right? You're not the people who always
15 sat before you. In 2020 when this board
16 responded to Athens-Clarke County, Athens-Clarke
17 County was the first board to really try to meet
18 the three standards that have to coexist: protect
19 ballot secrecy, deploy one voting station for 250
20 voters, and keep the equipment available for view
21 to be sure there's no hacking or malfeasance
22 going on. Those are three rules that coexist.

23 They tried so hard. They had meeting after
24 meeting, planogram after planogram. They really
25 worked it and came to the conclusion it was

1 impossible to meet that standard. And they took
2 action.

3 This board showed up in Athens within a week
4 of that, threatening them with large fines. The
5 message that the State Election Board sent that
6 day was heard all across the state.

7 The message was the State Election Board
8 will punish any county that does not comply with
9 universal use BMDs, but will not punish a county
10 that fails to protect ballot secrecy. Prioritize
11 universal use over ballot secrecy, that was the
12 message sent by action of the State Election
13 Board that day. I was at that meeting. I was at
14 many of the election board meetings that led up
15 to that meeting and saw how hard they tried.

16 And the finding of that board was not that
17 you could protect it. The board did not figure
18 out a way to solve it. The board said try
19 harder. So here we are, almost four years later.
20 And all across the state, people have been trying
21 harder.

22 But do you know what I hear that they will
23 not tell you? I have heard from many election
24 directors. We heard the message of Athens. We
25 don't want to be "athened." They call it that in

1 private conversations -- election directors. We
2 can't raise this issue with you or we'll be
3 "athened." They're scared of you.

4 And that is why you have an obligation to
5 take an affirmative action to send a different
6 message to contradict the message that you put
7 out into the universe on that day with that
8 decision in Athens-Clarke County.

9 You know, I was going to talk to you about
10 why it matters. It really doesn't matter why --
11 why ballot secrecy matters because it's the law,
12 right? There isn't any other area where when we
13 talk about the law, we say, Well, if it's too
14 hard, we can just break the law. If it's going
15 to cost too much, we can just break the law. It
16 is not a conditional right, the right to ballot
17 secrecy.

18 And you created the circumstance right now
19 where the counties have a clear direction from
20 the State Election Board, whether you like it or
21 not. Your predecessors created that condition.
22 That, more than anything else, is why you have an
23 obligation to act right now so that you're not
24 burdening those local election officials with
25 being law breakers.

1 By the way, SB202, let's talk about that.
2 SB202 says it subjects all of us -- me as a poll
3 watcher, election workers, subjects us to the
4 charge, to felony charges. We can be accused of
5 intentionally observing a voter in a manner that
6 allows them to see votes.

7 On that day -- that anecdote I told you
8 earlier -- I could've walked out of there with
9 felony charges because everyone knew that that
10 screen was in front of me. We couldn't not see
11 it without turning away and not doing what we
12 were there to do, which was observe elections and
13 observe activity and observe voters, right?

14 That cannot be the standard that you allow
15 to rule. You have to protect election workers.
16 You have to protect citizens that are walking
17 into the polling places. And you have to protect
18 voters, right? We -- we say where I come from
19 everybody knows your name. But they're not
20 supposed to know how you voted unless you tell
21 them. It's not okay.

22 But it's also just not the law that says
23 it's okay. And you have to undo what you did,
24 you the board, your predecessors, what you did in
25 2020 or things won't change. Thank you.

1 **MR. MASHBURN:** Thank you. Yeah. I was the
2 only member of the board who was there in Athens
3 that day, so ...

4 **MS. DUFORT:** That was a day, wasn't it?

5 **MR. MASHBURN:** Dr. Johnston and -- and board
6 member Lindsey are exonerated and absolved from
7 that, but I -- I remember at the time examining
8 the meetings of the Athens-Clarke County Board of
9 Elections and they couldn't even approve their
10 minutes. They couldn't even get a vote to
11 approve the board's minutes.

12 So that board was in a lot of dysfunction.
13 The -- the chair and the election director had
14 major dysfunction and trust issues. So there was
15 a lot of dysfunction going on in that -- in that
16 board of elections at that time. So we'll just
17 let the transcript from that hearing speak --
18 speak to that.

19 I do want to ask -- this is probably for
20 Ms. Marks, but just to correct the record.
21 Ms. Dufort brought up the rejection letter that
22 was sent from the October meeting. And in your
23 presentation on the first page, it stated that
24 the understanding that the previous petition was
25 denied because the board determined that they had

1 had not enough time to study the problem.

2 And so I -- I took no offense from that. We
3 had a lovely conversation before the meeting
4 started. So no, I'm not mad or anything, but I
5 went back and reviewed my letter that I sent,
6 denying the petition. And I don't recall that
7 being one of the rationales listed at all.

8 **MS. MARKS:** It did.

9 **MR. MASHBURN:** And it's the only one listed
10 here. So you and I are not going to be the only
11 one reading this document. So I just wanted to
12 correct for the record --

13 **MS. MARKS:** Right. Well, I -- I -- my
14 comments related to what -- what the board
15 decided in the meeting. I think if we went back
16 to the transcript of the meeting, that that was
17 the rationale, the primary rationale, that --
18 that you needed more time to study.

19 **MR. MASHBURN:** Okay. So I just wanted to
20 correct -- correct that on the record. And
21 the -- and then me personally, just speaking for
22 my own self, the petition was over -- if I recall
23 correctly, over 300 pages. So I spent hours and
24 hours and hours and hours and hours and hours
25 upon hours studying it. So -- and I know the

1 board is very conscientious in their work and so
2 they studied it as well.

3 But I'd like to go back to Ms. Dufort and
4 just be real clear with each other. And I
5 appreciate your candor. I absolute -- totally
6 appreciate your candor because it would be easy
7 just to try and say this isn't -- this problem
8 doesn't exist, but I think we owe ourselves the
9 respect to have a dialogue about it and discuss
10 it and if it's a problem, it's a problem.

11 And so let's go back to the example that you
12 gave us where the poll watchers were in a poll on
13 election day and they came across this problem.
14 And so am I correct or incorrect that under this
15 proposal, the poll manager or the election
16 superintendent would decide on election day that
17 ballots secrecy cannot be met and therefore we're
18 switching to paper ballots on election day?

19 **MS. DUFORT:** No. I would say you're
20 incorrect.

21 **MR. MASHBURN:** Okay. Explain --

22 **MS. DUFORT:** Because under these --

23 **MR. MASHBURN:** Explain it to me.

24 **MS. DUFORT:** Under these proposed rules,
25 that polling place would never have been set up

1 the way it was. Understand, it was set up to the
2 best of our election director's ability to follow
3 one voting station for 250 voters -- Right? --
4 set up in a manner that they could be observed
5 against hacking and protect ballot secrecy,
6 right? And she had a given space.

7 So she set it up to the best of her ability.
8 Under this proposal, she would make that -- and
9 she doesn't want to be "athened," that's a fact.
10 I've had that conversation, right?

11 Under this proposal, that polling place
12 would never have been set up that way to begin
13 with because that condition would've been
14 recognized. She would have had the direct charge
15 to protect ballot secrecy absolutely and set her
16 polling place up with a mix of stations, however
17 many ballot-marking stations she can possibly set
18 up.

19 I don't disagree that that is a priority,
20 right? But she would then stop to the extent --
21 because, see, you don't need eight foot apart
22 when you're voting -- marking a ballot by hand.
23 So she would have the flexibility to push more
24 stations close together, separate the ones that
25 needed protection because the big screen needs

1 protecting. And we would never have been in that
2 position.

3 But I'm just saying to you also,
4 practically, I never ever want to take away the
5 authority of the poll manager to respond to
6 actual on-the-ground conditions to make voting
7 better and more legally compliant for all voters.

8 **MR. MASHBURN:** Okay. And so back to
9 Ms. Marks now.

10 So are -- are you and I clear, Ms. Marks,
11 that your proposal is that the deadline for this
12 determination to be made is the last board
13 meeting before the election whenever that board
14 meets?

15 **MS. MARKS:** As a practical matter, you know,
16 I -- I would certainly look to the judgment of
17 the board, but generally I would say that the
18 deadline would be when they are doing their final
19 approval of the layouts of the precincts and that
20 sort of thing.

21 You know, if it -- if their board meeting's
22 five minutes before early voting starts, no.
23 It's going to need to be before that. I would
24 leave it to their judgment as to making this
25 decision at the time that they are setting up

1 their polling places, approving the setups,
2 approving the hours and that sort of thing and
3 not try to nail it down to the last -- well, say,
4 Oh, it's the very last meeting. They may need to
5 have an emergency meeting about something else.
6 We don't want to wait that long.

7 But they understand what their problems are
8 here. They -- they know. The example that Jean
9 just was using, I'm sure that it was
10 well-recognized that if they tried to cram all of
11 the machines in the voting place that there were
12 going to be problems, when the poll manager and
13 the superintendent could have said, Okay, our
14 accessible voting station is going to be facing
15 the corner. We're going to have wheelchair --
16 plenty of access to have wheelchair access into
17 here. And then the rest of the voting stations
18 that we need will be hand-marked stations other
19 than in the corners.

20 They would have that concept in mind well
21 ahead of the time the poll watchers show up.

22 **MR. MASHBURN:** Okay, thank you.

23 **MS. MARKS:** Certainly.

24 **MR. MASHBURN:** Other comments from the
25 board?

1 **MR. LINDSEY:** Just an ask. And I have
2 talked to a lot of different counties. We go out
3 and visit with them and we chat with them.
4 Has -- has anyone joined in your petition from a
5 county election board?

6 **MS. MARKS:** We haven't asked them to. And,
7 I mean, we could have, but what -- when we do
8 talk to election supervisors and superintendents,
9 board members, they tell us, We completely --
10 many of them tell us, We completely support what
11 you are doing, but we are not about to speak up
12 and be fined by the State Election Board for
13 saying that we need to do this.

14 We get a -- we have a lot of silent support
15 about this, but I'm not coming to you, saying,
16 trust me, they're all behind us.

17 **MR. LINDSEY:** Yeah.

18 **MS. MARKS:** They know that they will be
19 punished if they speak up on this.

20 **MR. LINDSEY:** Because frankly that's just
21 patently false.

22 **MS. MARKS:** Well, they feel -- it may be --

23 **MR. LINDSEY:** Hold on. Let me finish. Let
24 me finish. You've had your moment --

25 **MS. MARKS:** It may be, but they feel --

1 **MR. LINDSEY:** Let me finish my --

2 **MS. MARKS:** They feel that way.

3 **MR. LINDSEY:** Let me finish my -- because I
4 have talked to them. And I made a point and
5 others on the board have made a point that we are
6 in a collaborative phase, that we've worked well
7 with them, we've worked well with the county that
8 was out of -- out of compliance before and have
9 worked with them in terms of working at a
10 solution rather than fining.

11 **UNIDENTIFIED SPEAKER:** We can't hear you.

12 **MR. LINDSEY:** We are --

13 **MS. MARKS:** They can't hear you.

14 **MR. LINDSEY:** I'm sorry, guys. And that we
15 have been in a collaborative phase and we have
16 asked, and -- and with other folks. And I
17 haven't had folks -- and I -- you know, a lot of
18 what we do is going, Okay, guys, the law is not
19 working, what needs to work? Because our job is
20 to then go back to the legislature and then, you
21 know, be your mouthpiece with the legislature.
22 And we have sat down and sat with many -- many
23 supervisors.

24 And in terms of simply coming to us and
25 saying the present thing doesn't work and

1 therefore we'll fine, I think it's just patently
2 false. I'll tell you that much right now.

3 **MS. MARKS:** Well --

4 **MR. LINDSEY:** For one thing, there's no --
5 there's no ability for us to do that, and, number
6 two, there's no incentive for us to do that. So
7 that's just my comment.

8 **MS. MARKS:** But, you know, the legislature
9 has addressed this. That's the problem here. It
10 is only the State Election Board that has not
11 addressed it. The legislature's been incredibly
12 clear about it. They say the touch screens that
13 are to be purchased must provide absolute secrecy
14 of the ballot.

15 **MR. LINDSEY:** I agree.

16 **MS. MARKS:** And so they've done their job.
17 The problem is that the -- what they ordered in
18 the law is not being enforced by this board. And
19 the rules don't comply with what the state and
20 federal authorities ordered.

21 And you talk about how you had one county
22 who you've talked to and they began to try to
23 address it. But we know enough about the little
24 shields that they are going to use in the set up
25 to know that that may be a nice try, but it will

1 not be effective. You know, it -- just the
2 physical properties are going to keep that from
3 being effective. So we shouldn't pretend that
4 it's going to be effective and we shouldn't
5 pretend this is a legislative problem. And we
6 shouldn't say, Well, we'll just wait until the
7 Secretary recognizes that he's out of compliance
8 with the law.

9 It is really this board's duty,
10 responsibility, particularly as we're facing
11 2024, to say, Okay, we must act and recognize the
12 Secretary's out of compliance, the equipment's
13 out of compliance with all of the laws. It's up
14 to us.

15 **MR. LINDSEY:** I'll -- I'll let you have the
16 last word.

17 **MR. MASHBURN:** Dr. Johnston?

18 **DR. JOHNSTON:** Just a few comments. Indeed,
19 ballot secrecy is a priority and it is a
20 requirement and it is the law. And it can be a
21 problem, especially with the large touch screens.
22 It could be a problem with paper ballots too, if
23 they're not protected for privacy also.

24 Just to -- for the people here and those
25 that are listening to know, 44 states use

1 hand-marked ballot -- paper ballots and that's
2 kind of the elephant in the room. I mean, I know
3 this -- this petition for this rule amendment is
4 about secrecy, but it's the elephant in the room
5 because the consequence of not meeting the ballot
6 secrecy standard is to revert to hand-marked
7 paper ballots.

8 So, you know, I think we just all should
9 acknowledge that. It can be done. This petition
10 led me to -- or required me to start visiting
11 places that were using hand-marked paper ballots.
12 There's nothing to be afraid about with
13 hand-marked paper ballots.

14 I traveled to Orange County, Florida and
15 witnessed the use of -- Orlando, Florida in using
16 hand-marked paper ballots. And in fact the
17 entire state of Florida requires such.

18 So to -- I mean, it's not that it's
19 dangerous to use hand-marked paper ballots. It's
20 feasible to use hand-marked paper ballots. With
21 that comes the additional requirements of
22 security of that method of voting.

23 I will -- if -- if we had that, I wouldn't
24 lose as much sleep over the issue of security of
25 paper ballots as I do over the issue of using BMD

1 big screens.

2 So that being said, the conflict is with the
3 Secretary of State who decides what voter system
4 the state uses. And so -- so whether -- so
5 that's the issue here is it's -- it's the
6 Secretary of State's decision and it's -- the
7 question really goes to either the legislature or
8 the Secretary of State as to whether they would
9 allow the use of paper ballots like you're
10 proposing in this rule.

11 So it's -- they're -- it's all tied together
12 and I don't think we as a board could implement
13 this rule because of the affect that it would
14 have on the manner of voting that is the decision
15 of the Secretary of State. And I really have no
16 issues other than some of those distance
17 requirements. I'm not afraid of hand-marked
18 paper ballots. I think we could certainly use
19 them, but it's -- it's in the hands of the
20 Secretary of State in my opinion.

21 **MS. MARKS:** Dr. Johnston, could I address
22 that for a moment?

23 **DR. JOHNSTON:** Yes.

24 **MS. MARKS:** I would respectfully disagree
25 that it is in the hands of the Secretary. The

1 law is pretty clear, is quite clear, that the
2 Secretary can only certified a system in Georgia
3 that meets all of the Georgia statutes.

4 The Secretary certified 5.5A Dominion
5 system, where it violates Georgia law in a number
6 of places, including ballots secrecy. The role
7 of this board is to enforce the law. That is
8 really clear in the statute, in its mission.
9 This board must enforce the law. It is not up to
10 the Secretary to make up any ol' system that
11 violates the law and then we all have to live
12 with it just because the Secretary violated the
13 law in certifying the equipment.

14 **DR. JOHNSTON:** Well, Ms. Marks, the question
15 today is whether to accept the petition for the
16 rule amendment. It's not a decision on the
17 Dominican Voting System which is a debate for
18 another day. The issue here today is whether to
19 accept these rule changes, and I think we need to
20 keep the focus on -- on the petition.

21 **MR. MASHBURN:** And if you're -- if the board
22 is ready to make a motion, the chair's inclined
23 to hear it. Is there a motion?

24 Y'all have made your presentations? Okay.

25 Is there -- is there a motion?

1 **MR. LINDSEY:** (inaudible)

2 **MR. MASHBURN:** Okay. Is there a motion?

3 I'll make a motion. I move to reject this

4 petition. Is there a second?

5 **DR. JOHNSTON:** Second.

6 **MR. MASHBURN:** It's motioned and seconded.

7 Is there any discussion? Hearing no discussion,

8 we're ready to vote.

9 Dr. Johnston, on the question to reject the

10 petition how say you?

11 **DR. JOHNSTON:** Aye.

12 **MR. MASHBURN:** Dr. Johnston says aye.

13 Mr. Lindsey?

14 **MR. LINDSEY:** Aye.

15 **MR. MASHBURN:** Mr. Lindsey says aye. I say

16 aye. So the motion to reject the petition

17 carries unanimously.

18 We'll now move to the second question and

19 that is logic and accuracy testing, right?

20 **MS. MARKS:** I'm sorry, what was -- you

21 say --

22 Petition for Amendment of Rule of State

23 Election Board - Marilyn Marks -

24 183-1-12-.08 Logic and Accuracy Testing

25 **MR. MASHBURN:** We're up for logic and

1 accuracy testing?

2 MS. MARKS: Yes.

3 MR. MASHBURN: Okay.

4 MS. MARKS: Logic and accuracy.

5 MR. MASHBURN: And so that is tab 51 in the
6 board's packages.

7 And whichever of the two would like to
8 begin. And, again, y'all have not requested the
9 full 30 minutes --

10 MS. MARKS: No. I think you were --

11 MR. MASHBURN: -- we'll have as long as you
12 want.

13 MS. MARKS: -- going to do, like, four
14 minutes. Do you want to go first -- do you want
15 to go first because I have a passout --

16 MR. MASHBURN: The passout.

17 MS. MARKS: -- as we talked about.

18 MR. MASHBURN: But don't pass out.

19 MS. MARKS: Yes. We have an insider joke
20 about passing out.

21 MS. DUFORT: Okay.

22 MR. MASHBURN: Ms. Dufort --

23 MS. DUFORT: Again --

24 MR. MASHBURN: Ms. Dufort, the floor is
25 yours.

1 **MS. DUFORT:** -- I'm here on behave of the
2 Morgan County Democratic Committee. In
3 preparation for this morning, again I read the
4 transcript of the October meeting, discussion,
5 and your letter of denial.

6 In light of no objections raised, it seems
7 you might be prepared to adopt the provisions in
8 our proposed rules that bring logic and accuracy
9 testing into compliance with state law. That is
10 the central point of our petition, that the
11 General Assembly required comprehensive logic and
12 accuracy testing, but the Secretary of State's
13 procedures do not require it and no one is
14 enforcing it.

15 And the recent election in North Hampton
16 County, Pennsylvania delivered a chilling warning
17 that LAT shortcuts present unacceptable risk.
18 Election workers had to tell voters that ballots
19 that did not reflect the choices they made, at
20 least not in the human readable text, would be
21 counted anyway because the barcode and the text
22 did not match. Thorough logic and accuracy
23 testing reduces the chances that programming
24 errors like this will go unnoticed.

25 Your questions and concerns in your letter

1 of denial were focused on the second purpose of
2 our rules, to ensure access to meaningful public
3 observation. And as the representative of county
4 committee, public observation is a big deal for
5 us. We have lots of volunteers who engage in
6 that. Observing logic and accuracy testing is
7 very similar to observing tabulation and scan
8 recounts.

9 And recently I was at the Fulton County
10 recount, credentialed as a candidate observer.

11 Dr. Johnson[sic], you were there. So please
12 have some patience with my retelling of it.

13 It was a very large room with a plexiglass
14 room in the center with the scanner set up inside
15 of that. The general public was confined to an
16 area from which you could see things were
17 happening but you couldn't tell what was
18 happening. But as credentialed observers, we
19 were allowed much closer but not inside that
20 plexiglass room. But from our vantage point, I
21 was about half the distance to the scanner as I
22 am to Dr. Johnson. So I could read the monitor
23 that was set up at the scanner, and I could tell,
24 in fact, a lot of what was happening. I could
25 not hear. And really audio -- hearing what

1 election workers are -- are talking about as they
2 solve problems would really, really help.

3 In my home county, with credentials I'm
4 allowed into the room with the scanner. Without
5 credentials, again, I'm outside, looking through
6 a thick plexiglass window at an angle that does
7 not allow effective observation. And I fully
8 understand that far too many people have beha --
9 been behaving badly towards election workers.

10 But the answer cannot be to reduce public
11 observation. There has to be an answer to that
12 but it can't be reducing the public's right to
13 observe elections. The rule must allow for
14 visual -- effective visual observation with the
15 ability to hear discussions of poll workers so we
16 can understand what's happening.

17 There must be reasonable access to
18 supervisors so observers can report problems and
19 ask questions. We were able to solve a few
20 things by being able to talk to the Fulton
21 County -- new Fulton County board election
22 director, Dr. Patrise, for example, right?

23 Observers must be held to a reasonable
24 standard of behavior, similar to what we use for
25 poll watchers. Don't interfere with the work,

1 direct questions to the supervisor not the
2 workers, and don't disrupt the work.
3 Transgression should result in removal. Control
4 the behavior not the access.

5 The logic and accuracy tests have been
6 modified to address the concerns you raised.
7 Testing for the 2024 presidential preference
8 primary begins in about eight weeks. So the time
9 to act is now. There will be a high cost if you
10 defer this decision. Democracy dies in the dark.
11 Thank you.

12 **MR. MASHBURN:** Ms. Marks, you have the
13 floor.

14 **MS. MARKS:** Great. Have a seat.

15 Yes. Thank you again. As you know, HB316
16 requires that logic and accuracy testing be done
17 on the BMD voting system. It's fairly standard
18 across the nation, the type of language in the
19 logic and accuracy testing HB316 language.

20 However, in October 2020, in our *Curling v.*
21 *Raffensperger* case, the court found that the
22 procedures used by the Secretary of State in
23 ordering the counties to conduct their LAT fall
24 far short of what is required by Georgia law or
25 common sense. And the court asked that this

1 board specifically address the failure to comply
2 with logic and accuracy testing statutes before
3 the January 2021 runoffs.

4 That's been some time ago and this board
5 still has not acted, although we are facing again
6 a contentious, will be high turnout, 2024
7 election cycle. Still hasn't been addressed.
8 We're asking you at this meeting to address it.

9 At the last meeting, the discussion was, as
10 you declined our petition, that more study was
11 needed. We hope you've, indeed, studied the
12 situation and learned that the shortcuts that the
13 counties are taking with the Secretary's
14 permission and instruction are dangerous and
15 result in Georgia's logic and accuracy testing
16 falling far short of the minimum standards. It
17 permits both human errors in the ballot
18 definition files as well as undetectable hacking
19 to occur.

20 I want to try to give a couple of examples
21 that might bring home the issue that -- and urge
22 the action of this board. We sent you materials
23 in -- Ms. Dufort just mentioned -- the BMD
24 election problem that happened in North -- North
25 Hampton, Pennsylvania last month when human

1 error, no hacking, happened in creating the
2 ballot definition files. It wasn't caught in
3 LAT, but what happened was that the barcode was
4 accurate. It reflected what the voter was
5 putting into the machine, touching the machine,
6 but the face of the printed ballot was incorrect.

7 We all know that that is certainly
8 physically, mechanically, electronically
9 possible. And it is a perfect example of why we
10 don't believe that computers should be marking
11 ballots and recording the vote.

12 There were numerous opportunities for the
13 North Hampton officials to catch this error in
14 the logic and accuracy testing on the touch
15 screens. However, LAT on touch screens is super
16 complicated. It is complex; it's tedious; it's
17 error-prone. And even with hundreds of tests,
18 they did not detect the error.

19 But what happened shows the danger of ballot
20 marking devices because once those marking
21 devices were out in the field with the error, the
22 voters could not print a ballot that reflected
23 their choices on a particular judge retention
24 issue. If they chose yes, no was printed on the
25 face of the ballot. They could -- they could do

1 ballot after ballot and still would get the wrong
2 answer.

3 It could happen in Georgia. And in Georgia
4 it says in an audit -- and just as in
5 Pennsylvania, in an audit what's on the face of
6 the ballot counts. So an audit would have in --
7 if the margins had -- had been such in
8 Pennsylvania, an audit would actually reverse a
9 correct outcome. A hand recount would've
10 reversed a correct outcome. It's -- so the
11 importance of logic and accuracy testing as well
12 as a hand-marked paper ballot is hard to quite
13 imagine.

14 So I brought -- I brought some examples with
15 me. Let's -- the first -- first one is a Fulton
16 County ballot. Let's just go -- move right past
17 that one and go to --

18 **MR. MASHBURN:** And just for the court
19 reporter to note, the board has these that --
20 passouts, handouts that you've given us. Each
21 board member has one. It's --

22 **MS. MARKS:** Yeah.

23 **MR. MASHBURN:** Begins Fulton County official
24 ballot at the top.

25 **MS. MARKS:** Right.

1 **MR. MASHBURN:** So this --

2 **MS. MARKS:** And I'm -- I'm asking to set
3 that one aside for the moment and let's go to the
4 next one that says the Chatham County official
5 ballot for November 3, 2020. And -- and it's got
6 a --

7 **MR. MASHBURN:** Okay. Third -- third --
8 third page?

9 **MS. MARKS:** It's says -- on the front of it,
10 it says, "Correctly interpreted," in a little box
11 up at the top on the left-hand --

12 **MR. MASHBURN:** Yeah, third page --

13 **MS. MARKS:** -- side.

14 **MR. MASHBURN:** Got it.

15 **MS. MARKS:** The one I want to look at is
16 "Correctly interpreted." Let's -- and I want to
17 say before we panic, this was the machine
18 recount. And this was only counting at this
19 time -- this was only counting the presidential
20 election. But I just want to give you an example
21 of what can -- what can happen.

22 **MR. MASHBURN:** Okay.

23 **MS. MARKS:** Okay. So let's look at the
24 constitutional amendments at the very end.
25 Constitutional Amendment 1, the vote says it was

1 for yes. Constitutional Amendment 2, the vote
2 for yes. Statewide referendum, vote for yes.
3 Are you with me on the front page?

4 **MR. MASHBURN:** Yep.

5 **MS. MARKS:** And then we go to the next page
6 which the Dominion System calls the audit mark
7 page that tells us how the barcode was
8 interpreted. And we get the same thing in those
9 constitutional amendments, right? Yes, yes, and
10 statewide referendum, yes. Everything is
11 correctly interpreted, it appears. The printed
12 text that the voter saw is the same as what the
13 cast vote record tells us was voted, right?

14 **UNIDENTIFIED SPEAKER:** (inaudible) the
15 barcode.

16 **MS. MARKS:** Yeah. The -- what -- what's in
17 the barcode. So I'm saying there's no exception
18 here. This is fine, right?

19 **MR. MASHBURN:** I'm with you.

20 **MS. MARKS:** Okay. Now -- and this is
21 nothing I have altered -- this is -- this is a
22 ballot image. There are hundreds of these that
23 were printed like this. Okay. The voter saw
24 yes, yes, yes.

25 **UNIDENTIFIED SPEAKER:** (inaudible)

1 **MS. MARKS:** Wait. Well, we're not there
2 yet. No, we're on the next Chatham County
3 ballot, right?

4 **MS. DUFORT:** The one that does not say
5 corrected. Look at the second Chatham ballot.

6 **MR. MASHBURN:** Pages four -- well, pages 5
7 and 6.

8 **MS. MARKS:** Okay. So it's -- it's the
9 Chatham County ballot that has no text box on it,
10 okay? So it says -- what the voter saw here is
11 those last three yes-or-no questions. Yes, yes,
12 yes. With me? On the front page?

13 **MR. MASHBURN:** I'm with you.

14 **MS. MARKS:** That's what the voter saw.
15 Well, let's look at what the machine counted.
16 The machine says no, no, no. Okay. So -- so
17 what the machine ended up doing -- now, again
18 this -- this was a recount, so that's -- these
19 particular races were not being recounted. But
20 what this shows is that these glitches can happen
21 in the database and have happened in the database
22 where --

23 **MR. MASHBURN:** Sorry to interrupt you but
24 just for the record, we don't put people making
25 presentations under oath, so you're not under

1 oath, but tell us for the record where these
2 images came from, how they were obtained, the
3 chain of custody, et cetera.

4 **MS. MARKS:** I don't know that I can tell you
5 the chain of custody, it's been so long. But I
6 will -- I will go back and find it and send it to
7 you by e-mail. But these came from Chatham
8 County's databases after the November 2020
9 election. And these are ballot images from the
10 original count and the recount.

11 **MR. MASHBURN:** Okay. So I'm just going
12 to -- I don't want -- I'm -- I'm not intending to
13 put you on the spot here. So what I'm going to
14 do is I'm going to leave the record open and let
15 you submit that and we'll just append that into
16 the record.

17 **MS. MARKS:** Okay.

18 **MR. MASHBURN:** Okay?

19 **MS. MARKS:** That's -- that's just fine.
20 That's just fine. But I think what you will see
21 is that in this glitch -- and again I'm not
22 saying these were counted this way because it was
23 a recount and this is not the race that was
24 subject to being recounted. I'm showing the
25 example of how glitches can occur that count the

1 ballot differently than what the voter is seeing.
2 And this just underscores the need for logic and
3 accuracy testing that is robust and fully
4 compliant with state law.

5 Right now it is -- it is the most
6 superficial kind of testing that is taking place
7 where each machine is tested in a very, very,
8 very limited way.

9 Here's another example that I think
10 everybody can relate to. And that is that the
11 system does not even require that they test to
12 make sure that if a race is undervoted -- in
13 other words, somebody skips a race, somebody
14 doesn't vote at all, there is no test that will
15 make sure that a vote's not counted there, that,
16 you know, the vote doesn't show up for Sally even
17 though nobody touched Sally or any other
18 candidate on the screen.

19 There's -- there is no question, and as --
20 as the court has held, that the measures that are
21 un -- that are in process today are inadequate.
22 They don't meet state law. And we are asking
23 this board to -- to require that the counties
24 meet the state law in the testing. It is
25 tedious; it is complex; it is extremely hard to

1 do; it is expensive; it's time-consuming, but it
2 needs to be done. And we're asking this board to
3 insist that the -- the law be enforced and asking
4 you to think about the example of Northampton,
5 Pennsylvania which you are going hear again and
6 again as when a voter is looking at his ballot
7 and cannot trust the printed text, what do you
8 do? There's nothing that can be done then.
9 Okay? Any quest -- oh --

10 **MR. MASHBURN:** Well, I just thought of -- I
11 just thought of a -- kind of a workaround. Have
12 these been -- have these ballot images been
13 admitted into evidence in the suit?

14 **MS. MARKS:** No.

15 **MR. MASHBURN:** Okay. I was -- if they
16 were -- if they were admitted, I'd say, okay,
17 this is Plaintiff's 1 (indiscernible) --

18 **MS. MARKS:** No, not that I -- no, they
19 haven't.

20 **MR. MASHBURN:** Okay. I tried. I tried.

21 **MS. MARKS:** That's -- well --

22 **MR. MASHBURN:** I'll just leave the record
23 open.

24 **MS. MARKS:** I beli -- okay. And I believe
25 that what I'll find for you -- I think what I

1 will end up finding for you is that we obtained
2 the images from the Secretary of State. But I
3 don't want to swear to it right this moment.

4 **MR. MASHBURN:** And you're not under oath.

5 **MS. MARKS:** It's been so long. 2020's been
6 a little while ago.

7 **MR. MASHBURN:** And you're -- and you're not
8 under oath. But I'll just leave the record open.
9 I thought I had a workaround for it, but we'll
10 just leave --

11 **MS. MARKS:** Thank you.

12 **MR. MASHBURN:** -- the record open and let
13 you get that to us.

14 **MS. MARKS:** We'll -- we will definitely get
15 that to you.

16 **MR. MASHBURN:** Okay. Thank you.

17 **MS. MARKS:** But thank you for the question.

18 **MR. MASHBURN:** Thank you. Any questions
19 from the --

20 Oh, do you want to go? You went first,
21 Ms. Dufort.

22 **MS. DUFORT:** I went first.

23 **MR. MASHBURN:** You went first, okay.

24 **MS. DUFORT:** So if there's any question
25 about the access side of it.

1 **MR. MASHBURN:** So here we are. Questions
2 from the board. Dr. Johnston, you get to go
3 first.

4 **DR. JOHNSTON:** Sure.

5 So, Ms. Marks, I'll -- I'll just say for
6 the -- for the folks here and those listening
7 that I'm in -- I was in favor of this amendment
8 last time and I'm in favor of it now.

9 I do know that -- that this voting system
10 is -- is enormous and the -- and the devices that
11 are involved with the election process. It is
12 time-consuming to -- to perform logic and
13 accuracy. It's like setting up controls in the
14 laboratory to make sure that your medical tests
15 are accurate. You do a control every single
16 day --

17 **MS. MARKS:** Right.

18 **DR. JOHNSTON:** -- every time you use the
19 machine. So it's -- it's just doing that same --
20 that same proper procedure and step to make sure
21 that the machines are working properly and
22 counting properly. With thousands of scanners in
23 the state and tens of thousands of BMDs, every
24 one of those pieces of equipment, those devices,
25 must be checked and they must -- it must be

1 confirmed that they're accurate before the
2 election begins.

3 We know -- and from -- and also from the
4 Pennsylvania experience, but we know that if --
5 once those machines have been checked for an
6 accurate database, if there's any change made
7 after that point, it has a consequence --

8 **MS. MARKS:** Uh-huh.

9 **DR. JOHNSTON:** -- and it can actually -- it
10 actually change -- it could change the ballot.
11 It may not, but it must be tested because if
12 there's -- if it does change the ballot, the
13 electronic ballot, it corrupts the ballot.
14 You're dealing with a corrupted ballot and that
15 can have an effect. It may not have an effect
16 but it can.

17 It could have an effect that would change
18 the results of an election. And it might change
19 the results of an election and the candidate is
20 the one that suffers the consequence of this
21 because they don't know. They just say, Oh,
22 darn, I just barely lost, and would never know
23 unless it's a very obvious unexpected result.

24 So shortcuts have consequences, and I fully
25 support complete logic and accuracy testing. And

1 the -- and the prohibition to not change the
2 ballot database once that has been set and the
3 election begins. If we had -- if one were using
4 paper ballots as in our code -- it says if you
5 have time, you may reprint the proper ballot.

6 Well, when you're changing the electronic
7 database for a ballot, you're essentially
8 thinking you're reprinting it. But you have to
9 go through all the proper steps of logic and
10 accuracy testing of every single piece of
11 equipment to make sure that it is true and
12 accurate. Thank you.

13 **MR. MASHBURN:** Dr. Johnston yields the
14 floor.

15 Board member Lindsey?

16 **MR. LINDSEY:** Yeah, thank you.

17 Is -- in terms of your rule, is --

18 **MR. MASHBURN:** Speak close to the
19 microphone.

20 **MR. LINDSEY:** Thank you. I'm sorry, guys.

21 In terms of the rule, do you define logic
22 and accuracy in your rule? I don't see where
23 it's -- where it's defined.

24 **MS. MARKS:** Well, the -- the rule itself is
25 entitled and has been for decades, I guess, logic

1 and accuracy testing.

2 **MR. LINDSEY:** I'm saying -- but is there --

3 have you -- you're asking for us to add the terms

4 logic and -- logic and accuracy; correct?

5 **MS. MARKS:** No. We're -- no. We're not.

6 **MR. LINDSEY:** Well, I'm seeing it several

7 places where it looks like it's being --

8 **MS. MARKS:** I'm so sorry. Your -- your --

9 what's that now?

10 **MR. LINDSEY:** It's -- it looks like you're

11 adding -- oh, is logic and accuracy simply

12 something that you guy have highlighted in the

13 rule? I'm sorry. Maybe I misunder --

14 **MS. MARKS:** I think that's just the way it

15 printed straight from --

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

17 **MS. MARKS:** -- the (indiscernible) --

18 **MR. LINDSEY:** That's fine. That's fine. I

19 just wanted to know whether or not that was a

20 term that being added or --

21 **MS. MARKS:** No, no. No --

22 **MR. LINDSEY:** -- whether that's --

23 **MS. MARKS:** -- the -- the --

24 **MR. LINDSEY:** So the logic and accuracy

25 testing is already in the rules.

1 **MS. MARKS:** Correct. Correct.

2 **MR. LINDSEY:** Okay. That's good.

3 **MS. MARKS:** And I don't know whether yours

4 is a color printout.

5 **MR. LINDSEY:** It is. It is. I just --

6 **MS. MARKS:** Okay.

7 **MR. LINDSEY:** I just didn't understand the

8 bold and the under --

9 **MS. MARKS:** Right. Right. That's --

10 **MR. LINDSEY:** -- underline. Okay. My bad.

11 **MS. MARKS:** No problem.

12 **MR. LINDSEY:** Which relates back to O.C.G.A.

13 21-2-379.25(c); correct?

14 **MS. MARKS:** I believe that's correct.

15 **MR. LINDSEY:** Okay. And it's your

16 contention that -- that these -- that the

17 requirements -- in the requirements in that code

18 section, which we are required to enforce when a

19 complaint is raised, lays out in specifics a

20 sufficient level of testing required under --

21 **MS. MARKS:** For logic and accuracy.

22 **MR. LINDSEY:** So I -- well, I guess my first

23 question is do I need to go back to the

24 legislature and ask them to tighten up this?

25 **MS. MARKS:** No, no. The --

1 **MR. LINDSEY:** So you're fine --

2 **MS. MARKS:** What the --

3 **MR. LINDSEY:** You're fine with (c). I just
4 want to make sure. I'm just --

5 **MS. MARKS:** Right. No --

6 **MR. LINDSEY:** -- checking the box here.

7 **MS. MARKS:** We believe -- we believe that
8 for purposes of preelection logic and accuracy,
9 the legislature got it right.

10 **MR. LINDSEY:** Okay.

11 **MS. MARKS:** And they did what most states
12 do.

13 **MR. LINDSEY:** All right. That's my first
14 question.

15 **MS. MARKS:** Okay.

16 **MR. LINDSEY:** All right. And so that's
17 good. Just one less thing I've got to go back
18 and ask the legislature. And we've got a few
19 things we've already talked about.

20 But it's your contention that several
21 counties, and perhaps multiple counties, are
22 not -- are not following (c); correct?

23 **MS. MARKS:** Virtually all of the counties
24 are not complying with the law. But what they
25 are doing is using the Secretary of State's

1 procedure manual, which is a -- far, far distant
2 from the law. And Judge Totenberg had quite an
3 extensive hearing in the finding on that.

4 **MR. LINDSEY:** Yeah, I understand that.
5 Has -- you know, we've already had that
6 discussion yesterday as -- in terms of our
7 authority with the Secretary of State. Not going
8 to go down that path again. But we have asked
9 for clarity from the -- from the General Assembly
10 in terms of our -- I'm just letting you know in
11 case you weren't here yesterday --

12 **MS. MARKS:** Right, right, right.

13 **MR. LINDSEY:** -- for that part.

14 **MS. MARKS:** But our -- our request is you --
15 your --

16 **MR. LINDSEY:** I know. I know. I know.

17 (Cross-talking)

18 **MS. MARKS:** -- (indiscernible) that the
19 counties --

20 **MR. LINDSEY:** I'm sort of -- I'm just
21 letting -- letting you and the audience know that
22 we have requested that the General Assembly
23 clarify what our authority is when it comes to
24 the Secretary of State.

25 **MS. MARKS:** Right.

1 **MR. LINDSEY:** Has there been any specific
2 complaints filed against any counties that have
3 not complied with (c)? Because that's -- that's
4 the clearest way for us to mandate something, is
5 to -- is to say, hey, you're out of compliance.

6 **MS. MARKS:** Well, of course, it -- the
7 public is not permitted to know the nature of the
8 complaints that are in your backlog. And I think
9 I read somewhere that there are 300 complaints in
10 your backlog. And if any member of the public
11 ever tries to find out, we are told no, that they
12 are secret.

13 **MR. LINDSEY:** Yeah. That's another thing,
14 quite frankly, we're working on because I agree
15 with you. It shouldn't be secret.

16 **MS. MARKS:** So -- so we can --

17 **MR. LINDSEY:** I just wanted to let you know.

18 **MS. MARKS:** -- not answer your question.

19 **MR. LINDSEY:** As far as I know -- and I will
20 say this, as far as I know, there isn't one, and
21 I will also state for our greater audience and
22 the people in this room --

23 By the way, if your arms get tired, you can
24 put it down and I can still see it. I promise.
25 Or you can keep it up. Your call. I just wanted

1 to make sure you can understand that. I see it.

2 I just wanted to let you know that that's --
3 that's -- this board is operating, trying --
4 trying to clean that up as we get -- as we get
5 proper administrative staff, as we get proper
6 funding to move beyond that because I do agree
7 with you, complaints should be a matter of public
8 record.

9 **MS. MARKS:** And --

10 **MR. LINDSEY:** I'm just sort of giving you
11 that background.

12 **MS. MARKS:** Right. But may -- if I could
13 come back to the comment you made, though, that
14 it -- it sounds like you're saying, well, it's
15 easier, perhaps, for this board to deal with
16 specific complaints than it is with promulgating
17 rules.

18 **MR. LINDSEY:** I understand. I understand.

19 **MS. MARKS:** No --

20 **MR. LINDSEY:** Let me get to my point.

21 **MS. MARKS:** -- but if that is the way we
22 need to come to you, to -- rather than asking you
23 to enfor -- to promulgate rules and to create
24 rules that support the law is to pile up the
25 complaints about these things --

1 **MR. LINDSEY:** No, that's not what I'm
2 saying.

3 **MS. MARKS:** Okay.

4 **MR. LINDSEY:** Hold on. That's not even
5 remotely what I'm saying.

6 **MS. MARKS:** Okay.

7 **MR. LINDSEY:** What I'm saying is that the
8 rules are there -- rules are put in place to
9 supplement what the law mandates. Rules are not
10 there to simply repeat what the law mandates.

11 **MS. MARKS:** Correct.

12 **MR. LINDSEY:** And in looking at (c) -- and
13 this is my issue with this one is that (c) lays
14 out pretty much in detail. A lot of times we get
15 laws that sort of tell us in general terms what
16 they want us to do, and it's up to us to come
17 back with details.

18 But (c), by contrast, lays it out pretty
19 much in detail. And if they -- and if the --
20 if -- big "if" here because they're not here to
21 respond, if the Secretary of State or the
22 counties are not following the explicit
23 requirements in (c), that's an issue that we'll
24 have to deal with. And I'm not sure if simply
25 repeating the rule is the way to go other than --

1 other than pushing on them to enforce that which
2 is already laid out in great detail. I'm looking
3 at it again, and I did look at it before. So
4 anyway.

5 I'll yield while I look at a couple things.

6 **MR. MASHBURN:** Okay. Mr. Lindsey yields the
7 floor.

8 I have a couple of questions, please. And
9 everybody by now knows when Mashburn starts
10 talking, we're going to start talking about
11 unfunded mandates. So here we go.

12 I want to make sure that I'm understanding
13 your -- the way you've marked this -- just so I
14 don't have any mistakes -- in that the copy that
15 we have, there's a blue strike-through for what
16 you're taking out and a red indication for that
17 which you want to add; correct?

18 **MS. MARKS:** Correct.

19 **MR. MASHBURN:** Okay. So if we look to
20 three -- if we look to 3(b) --

21 **MS. MARKS:** Correct.

22 **MR. MASHBURN:** -- you want to add this
23 second sentence.

24 **MS. MARKS:** Right.

25 **MR. MASHBURN:** Okay. So I want to

1 address -- I want to find out what we're telling
2 the counties they're going to have to do with
3 regard to the second sentence. So let's -- let's
4 kind of talk about that.

5 **MS. MARKS:** Okay. And this goes to
6 Mr. Lindsey's comment actually. He's saying that
7 the statute itself is pretty explicit already and
8 specific. This just kind of adds a little bit
9 more emphasis, saying, and what we mean by that
10 is that each ballot-marking device shall be
11 tested for accurate recording and printing of
12 each candidate selection on each contest for each
13 ballot style for which the BMD can be used for
14 voting.

15 **MR. MASHBURN:** All right. And do you have
16 an estimate of how long it takes to do this test
17 for one ballot style on one machine? Do you
18 know?

19 **MS. MARKS:** Certainly not --

20 **MR. MASHBURN:** I'm not -- this isn't a game
21 of catch you. I'm just trying to quantify this.

22 **MS. MARKS:** Certainly not because we've
23 never been -- had that kind of access, but do
24 recall that that's going to be incredibly
25 different if you've got a runoff race with two

1 candidates versus a May primary ballot with 47
2 contests and --

3 **MR. MASHBURN:** Right.

4 **MS. MARKS:** -- a hundred and thirty
5 candidates.

6 **MR. MASHBURN:** Okay, that makes sense.

7 **MS. MARKS:** So, yes, I don't think
8 there's -- there's a uniform answer there.

9 **MR. MASHBURN:** Okay. Is there -- is there
10 any estimate or idea on how many ballot styles
11 that we use in Georgia? Ballpark?

12 **MS. MARKS:** It's going to be in the
13 thousands.

14 **MR. MASHBURN:** Okay.

15 **MS. DUFORT:** (inaudible)

16 **MS. MARKS:** Yeah. Yeah. It -- there will
17 be, as she was just saying, one per seat per
18 precinct. But there're -- there are going to be
19 more than that because let's take a primary. In
20 every -- let's see, you're going to have
21 Democratic, Republican, and nonpartisan for every
22 race and every precinct.

23 So, no, there is no question this is an
24 enormously complex, time-consuming, expensive ...
25 But it was -- the legislature put it in for a

1 reason. The legislature also determined that
2 there was no cost to doing this.

3 **UNIDENTIFIED SPEAKER:** (inaudible)

4 **MS. MARKS:** We challenged them on that at
5 the time. So --

6 **MR. MASHBURN:** Do you agree or disagree with
7 that?

8 **MS. MARKS:** Well, we disagreed --

9 **MR. MASHBURN:** That there's no cost?

10 **MS. MARKS:** -- at the time. And we -- and
11 we strenuously disagree now, having watched it in
12 process.

13 **MR. MASHBURN:** So do you have an estimate
14 for us on how much that we can go to the
15 counties -- how much -- an estimate on how much
16 more time this is going to take them than what
17 they're doing now, assuming the ones that are
18 complying with the law -- how much more time are
19 y'all asking them to put in?

20 **MS. MARKS:** It is not that we are asking
21 them --

22 **MR. MASHBURN:** Or is your petition asking
23 them to put --

24 **MS. MARKS:** We are -- our petition is not
25 asking them to take more time than what they are

1 doing now. Our petition is to do what the law
2 requires. Not -- not to say, well, what you're
3 doing now is okay. We don't -- we don't want it
4 to cost any more. We don't -- we don't want it
5 to necessarily have to complete what the
6 legislature said you need to.

7 But, Mr. Chair, it is -- it is substantial.
8 It is quite substantial. It's thousands -- a
9 county like Fulton, thousands of hours.

10 **MR. MASHBURN:** More.

11 **MS. MARKS:** Yeah. Because they're doing a
12 major shortcut right now that is ineffective.
13 I'd almost say don't even do -- I shouldn't --
14 that would be an exaggeration for me to say don't
15 even do what you're doing now. But the -- but
16 they're spending a lot of time ineffectively
17 today.

18 **MR. MASHBURN:** Yeah. Because when I talk to
19 the counties, I don't hear that they're afraid of
20 me, but I hear that they don't have the time or
21 the staff to do what they're doing now. And
22 they're always saying, Don't put more on us.

23 **MS. MARKS:** Right. Okay. But how do you
24 say, Well, then you don't need to follow the law?

25 **MR. MASHBURN:** Right. Yeah, I get that.

1 **MS. MARKS:** Yeah. Yeah. Because we've
2 given you -- Northampton has taught us all that
3 this can and does happen in real life. Chatham
4 is teaching us it can and does happen. We can't
5 say, well, we'll hope for the best for election
6 day because what happens on election day is there
7 is no way to recover if such an error gets
8 through the system.

9 And I think you all are the most aware of
10 any -- anybody in Georgia of how hard it is for
11 the counties to retain experienced election
12 workers right now and the kind of the brain-drain
13 from the election officials happening right now.
14 Errors are going to occur more.

15 **MR. MASHBURN:** Okay. I appreciate it.
16 Thank you.

17 More questions from the board? I think we
18 were -- I think I took the floor while
19 Mr. Lindsey was getting ready to have some
20 further comment or question.

21 Are you ready?

22 **MR. LINDSEY:** No, I just -- well, you
23 know --

24 **MR. MASHBURN:** Mr. Lindsey has the floor
25 again.

1 **MR. LINDSEY:** You know, just -- you know,
2 where you say shall test each race, they say all
3 races. I'm still looking at the -- at the code
4 section. So, you know, and that situation is --
5 and -- and does require that all marker -- all
6 ballot markers be tested accurately. I'm just --

7 **MS. MARKS:** I'm happy to say each, every,
8 and all.

9 **MR. LINDSEY:** That's fine. I'm just simply
10 pointing out that I think that that's covered by
11 the code section. And -- and I agree that the
12 proper testing is critically necessary. And I
13 want them to follow the law because, as you and I
14 have discussed, while, you know -- you know,
15 every -- every system is -- is capable of having
16 bad guys intervene, whether it be paper or
17 electronic, it's always important to stay one
18 step ahead of the bad guys and including the
19 issue of upgrades and testing and everything
20 else.

21 My only question here is whether (b) is
22 sufficient notice to the -- to them on how to do
23 it and whether or not yours is -- your additional
24 language is necessary.

25 It kind of reminds me of the movie, A Few

1 Good Men, in which, you know, the defendants
2 object, judge rules, and the -- one of the other
3 lawyers gets up, But, Judge, I really, really,
4 really object.

5 And, you know, we have here a rule already
6 in place and we have here a code section that
7 very much in detail lays out what should be done
8 or what is -- not should, but what is required to
9 be done. And our issue is getting the local
10 counties to comply with the state law and with,
11 for that matter, Secretary of State. And that's
12 my comment.

13 **MR. MASHBURN:** Okay. We thank you for your
14 presentation. We thank the board for their
15 involvement and their questions. So at this time
16 the -- the chair is ready to entertain a motion
17 from a member of the board if there is a motion.

18 **DR. JOHNSTON:** I'd like to make a motion
19 that we accept the amendments to the petition --
20 the petition for amendments to rule 183-1-12.08,
21 logic and accuracy testing, to be considered
22 and -- and amended.

23 **MR. MASHBURN:** Okay. There's a motion to
24 accept the logic and accuracy petition to enter
25 into rulemaking. Is there a second? Is there a

1 second? Without a second, the motion cannot be
2 entertained. Is there a counter -- is there
3 another motion?

4 **MR. LINDSEY:** Move to reject. And after I
5 make my motion, I'll explain why.

6 **MR. MASHBURN:** There's been a motion to
7 reject the petition for logic and accuracy
8 testing. I'll second that motion to reject.
9 Discussion.

10 **MR. LINDSEY:** I want to make it very clear
11 I'm not moving to reject logic and accuracy
12 testing. Logic and accuracy testing is already
13 required under Georgia law, under the code
14 section O.C.G.A. 21-2-379.25(c) and underneath
15 the existing rules.

16 And it would be incumbent upon us and the
17 Secretary of State to push on the counties those
18 methods that put them in compliance with this --
19 with the existing rule and that I simply don't
20 see anything to be added by this proposed rule.
21 Gets back to my analogy on A Few Good Men.

22 **MR. MASHBURN:** Thank you. Further
23 discussion? Dr. Johnston?

24 **DR. JOHNSTON:** No further discussion.

25 **MR. MASHBURN:** No further discussion. So

1 we'll be ready to vote. We'll vote in reverse
2 chronological order of seniority.

3 Dr. Johnston, how say you on the motion to
4 reject?

5 **DR. JOHNSTON:** Nay.

6 **MR. MASHBURN:** Dr. Johnston says nay.

7 Mr. Lindsey?

8 **MR. LINDSEY:** Yea.

9 **MR. MASHBURN:** Mr. Lindsey says aye. I'll
10 say aye. The motion to reject passes 2 to 1.

11 Thank you --

12 **MS. MARKS:** Can we ask --

13 **MR. MASHBURN:** -- very much for your
14 presentation.

15 **MS. MARKS:** -- a follow-up question? Could
16 we ask a follow-up question?

17 **MR. MASHBURN:** Sure.

18 **MS. MARKS:** Thank you. Thank you.

19 Mr. Lindsey said that the role of this board
20 would be to enforce, and we would absolutely
21 welcome that.

22 If we were to submit a complaint this week
23 yet, which you know we can do that pretty fast;
24 we know how to complain -- that if we were to
25 submit a complaint this week, could the board

1 address that complaint in the near term or is it
2 going to end up in the backlog? Given that we've
3 got 2024 elections --

4 **MR. LINDSEY:** I understand. And I do hear
5 you. And the best way I can answer is I'll see
6 what I can do because I do understand the
7 importance of the testing. And it is something
8 that is of great importance to me. And I know
9 it's of great importance to the rest of the board
10 members, particularly since certain upgrades were
11 not able to be done prior to the '24 election.

12 And so our best backstop is accurate
13 testing. And so let me see what we can do.

14 **MS. MARKS:** Thank you. So we have your
15 e-mail addresses.

16 **MR. LINDSEY:** Oh, yeah.

17 **MS. MARKS:** You'll be hearing from us.

18 **MR. LINDSEY:** I get them. And I get all of
19 theirs too (indicating).

20 **MR. MASHBURN:** Okay. Thank you so much for
21 your present --

22 **MR. LINDSEY:** And for the record, I read
23 them.

24 **MR. MASHBURN:** Thank you so much for your
25 presentation. We appreciate your hard work.

1 Thank you.

2 Dr. Johnston requested the floor.

3 **DR. JOHNSTON:** Oh, just a point of order. A
4 question would be if a complaint were submitted,
5 Mr. Lindsey, who should it be submitted against?

6 **MR. LINDSEY:** To the respective counties
7 that are not in compliance?

8 **MS. MARKS:** (inaudible) --

9 **MR. MASHBURN:** Okay.

10 **MR. LINDSEY:** I'll leave it up to your
11 discretion.

12 **MS. MARKS:** Thank you. But you'll
13 understand --

14 **MR. LINDSEY:** I do understand what you're
15 trying to do.

16 **MS. MARKS:** -- (inaudible).

17 **MR. LINDSEY:** I understand.

18 **MS. MARKS:** Okay, thank you.

19 **MR. MASHBURN:** We appre --

20 **MS. DUFORT:** (off mic) (inaudible) county
21 will be in front of you, saying, Here's the
22 procedure for (indiscernible). Here's the law.
23 You choose. So (inaudible) going to arrive at
24 the same point --

25 **MR. LINDSEY:** And I'm going to say follow

1 the law. I'll tell you right now I'm going to
2 tell them to follow the law.

3 **MS. DUFORT:** But --

4 **MR. LINDSEY:** I do understand where you're
5 coming from. I'm going to tell them to follow
6 the law.

7 **MS. DUFORT:** (indiscernible).

8 **MR. LINDSEY:** I hear you.

9 **MS. DUFORT:** (indiscernible) State Election
10 Board (indiscernible) state law.

11 **MR. LINDSEY:** I hear you. (inaudible).

12 **MR. MASHBURN:** That completes all items on
13 the board's agenda for today. I'd like to thank
14 everyone's attendance -- thank everyone for their
15 attendance and their participation in the
16 important work of the board.

17 I thank the board members for all of their
18 hard work in preparing for these meetings. And
19 with that, I'll take a motion to adjourn.

20 **MR. LINDSEY:** So moved.

21 **MR. MASHBURN:** There's been a motion to
22 adjourn.

23 **DR. JOHNSTON:** Second.

24 **MR. MASHBURN:** Seconded. All those in
25 favor'll say aye.

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THE BOARD MEMBERS: Aye.

MR. MASHBURN: Anybody risk to being
opposed? No one opposed. We are adjourned.
Thank you very much.

(Concluded at 11:42 a.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, pages 3 through 112, 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 22nd day of January, 2024.

Mary K McMahan

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