THE OFFICE OF SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:

STATE ELECTION BOARD MEETING

Tuesday, May 7, 2024,

9:30 a.m.

APPEARANCE OF THE PANEL

John Fervier, Chair

Sara Tindall Ghazal

Rick Jeffries (by phone)

Janice Johnston

Ed Lindsey

Michael Coan, Executive Director

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Transcript Legend
(sic) - Exactly as said.
(phonetic) - Exact spelling unknown.
-- Break in speech continuity.
. . . Indicates halting speech, unfinished sentence or omission of word(s) when reading.
Quoted material is typed as spoken.

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P R O C E E D I N G S

MR. FERVIER: We'll call to order the May 7, 2024, meeting of the State Election Board of Georgia. We'll start with our invocation.

Vice chairman Lindsey, if you would like to lead us in prayer, please.

(Invocation)

MR. FERVIER: Member Johnston, would you lead us in the Pledge of Allegiance.

(Pledge of Allegiance)

MR. FERVIER: Thank you for being here today. For those of you that don't know me and that's -- would be just about everybody in this room, my name is John Fervier. I'm the -- been the nominated -- actually appointed as the chairman of the State Election Board back in January by Governor Kemp and have served since then.

I want to welcome all of our guests today. Many of you are here as respondents and I appreciate your attendance today for this meeting. I'm not one for long-winded dissertations, but I do think it's appropriate to recognize and thank the thousands of election workers that are out there and managers that are

out there today, ensuring that Georgia has free, safe, and fair elections. They all deserve our gratitude.

I also want to thank this board, our administrator Alexandra, and our executive director Mike Coan for all the hard work that they do. I've grown to appreciate that a lot over the last four months. I now have me a second job in addition to my primary one apparently.

While we may not always agree, I've learned that every member of this board is dedicated to serving the citizens of Georgia and I am honored to serve with each of them.

We have a long two days ahead of us, so let's get started with the meeting. Our first item on the agenda is approval of board meeting minutes from the State Election Board meeting in hearings February 13, 2024, a copy of which is in the board members' packets and hopefully they have reviewed. Are there any questions from the board pertaining to the -- yeah, I'm -- I'm not a technology guy, so we'll have to figure this out as we go.

DR. JOHNSTON: Corrections to the minutes,

Mr. Chairman, from February 13th: SEB2022-109, Fulton County primary recertification. The vote was three yea and one nay for correction.

MR. FERVIER: Okay.

DR. JOHNSTON: SEB2022-348, statewide precincts scanner issues. The vote was three yea and one nay.

SEB2022-222, certifica -- EAC certification. The vote cast three to one, correction.

MR. FERVIER: Are there any other corrections that the board sees? Mr. Lindsey?

MR. LINDSEY: Subject to those -- those corrections, Your Honor -- Mr. Chairman, I move to accept the minutes to Dr. Johnston's amendments.

MR. FERVIER: We have a motion to approve the minutes subject to Dr. Johnston's corrections. Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: Second by Dr. Johnston. Any discussion? Hearing no discussion, all those members in favor of approving the minutes with the corrections signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no

opposition, so moved.

The next item on the agenda is the approval of the board minutes from the State Election Board emergency meeting on March 28, 2024, a copy of which is in the board's binder. Are there any comments or corrections about those minutes?

MR. LINDSEY: Move to accept the minutes.

MR. FERVIER: We have a motion from board member Lindsey to accept the minutes as presented. Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a second by member Johnston. Any discussion? Hearing no discussion, all those in favor of approving the minutes of the State Election Board emergency meeting on March 28, '24, signify by saying aye.

THE BOARD MEMBERS: Aye.

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

The next item on the agenda is public comments. There was a sign-up sheet prior to your entrance today for this.

MR. LINDSEY: Yes.

MS. GHAZAL: Mr. Chairman, if I have your leave, I would like to make a motion under a new

business prior -- prior to going to public comments.

MR. FERVIER: The chair will hear a motion.

MS. GHAZAL: I would like to move that our currently scheduled meeting in October, which is currently on the calendar for October 15th, that we move the date of that to October 8th because October 15th is the first day of early voting for the general election.

So my motion is that our October meeting be held on Tuesday, October 8.

MR. FERVIER: There is a motion by board member Ghazal to change the date of the October meeting from October 15th to October 8th.

MR. COAN: Yes.

MR. FERVIER: Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: There is a second by board member Johnston. Any discussion? Hearing no discussion, all those in favor of moving the October 15th board meeting to October 8th signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, so moved. Thank you.

PUBLIC COMMENT

The next item on the agenda is public comment. We have received a list of people that have signed up for public comment that will be called out by our executive director. I ask that each of you limit your comments to two minutes. I -- I'm a person that believes in brevity and I think that hopefully we can get as many people in as possible. We'll limit the total time to one hour.

I have been provided this -- with a stop clock that tells me when the two minutes is over, and in two minutes I will lightly tap the gavel so that you know that your time has expired. And I ask you to please be considerate of those others here and limit your -- your time to two minutes.

MR. COAN: All right. We want to again thank everybody for being here. We're going to start with -- and I want to apologize in advance if I butcher your name. I'm trying to read your writing, so please forgive me if I mess your name up. But Susan Opra -- Opraseth(pronouncing)?

MS. OPRASEUTH: Susan Opraseuth?

MR. COAN: Opraseuth? Just come over here

to the podium, please.

MS. OPRASEUTH: (off microphone, indiscernible)

MR. FERVIER: I -- I have the stopwatch. And at the end of two minutes, I'll --

MS. OPRASEUTH: (off microphone) But I can't visually see (indiscernible).

MR. COAN: David Sumrall, will you be next? You'll be next.

MS. OPRASEUTH: Good morning. My name is Susan Opraseuth from Fulton County. Last spring I was elected to what I thought was a political party position at the state level. I later discovered that the powers that be in the state, including your body and your bosses, have authorized a private corporation of like name to run the show and my name was never added to the state governing committee list for any Republican apparatus at all.

This is against, as you know, strict requirements of Georgia election law. In fact, there are no governing members -- body members registered with your elections division. So what we have here is a missing political party. We have no legally filed state Republican party in

the -- in Georgia. So how is it that we are even discussing the requirements of election compliance in this room today upon what is literally a private corporation.

We have sent numerous OLRs to the Secretary of State requesting the required documents of our political party. We have never received them. I have personally visited the Secretary of State's general counsel's office requesting assistance. She sent me to the archives in Morrow, Georgia. I found nothing.

Then trying to push further, I was instructed by the attorney of the corporation in writing not to contact my government any further regarding my concerns of our missing political party records. Every time you meet under these conditions to -- not disclosing this to the people of Georgia, it perpetuates harm upon us and makes us think you are part of the show.

This is corporate theater and does not belong in the elections of Georgia at all. You are putting yourselves at risk. You are not immune from these acts outside the law of Georgia. Every time you sit in this room, you pretend. You have been given written notice. I

know that. It is exhausting to keep track of the consequences of this fraud that your body and your bosses are conflicting upon the people of the great state of Georgia.

The resistance of the corporation to comply with the law disqualifies every single one of our ballots under Georgia 21-2-110 and 21-2-154. Our ballots are totally spoiled again thanks to the negligence and failure to perform your duties for the great citizens of Georgia.

Complacency is acceptance. Thank you.

MR. FERVIER: Thank you.

MR. COAN: Thank you.

All right, next we have David Sumrall. On deck is Jamie Parrish.

MR. SUMRALL: My name is David Sumrall. I'm an elector from Bibb County, Georgia. I request the Georgia State Board of Elections to give guidance to county board of elections on adjudicating voter challenges.

Last week I submitted three voter challenges to the Bibb County Board of Elections totaling 791 voters. All three challenges were rejected by the Bibb County Board of Elections citing a conflict with Federal Voting Rights Act's

requirement that no changes be made to the voter rolls within 90 days of a federal election.

Now, such interpretation makes voter challenges practically useless since knowledge of a problem with a voter's registration would have to be known at least three months in advance even though Georgia law allows voter challenges up to election day. This year such voter challenges would not be admissible except for a couple weeks in late June due to the number of federal elections this year.

Before rejecting the challenges, the Bibb County Board of Elections was questioning whether a residential address specifying where a voter actually lived was required for a voter registration even though I cited Georgia law and Judge Simpson's interpretation of law in an April 3, 2018, State Election Board hearing when he advised that post office boxes and commercial addresses were not acceptable addresses.

Furthermore they were questioning the evidence of voters who moved out of state and were registered out of state and even voting out of state. What evidence does the State Board of Elections consider valid for such challenges and

when can such challenges be brought? Please tell us. I've submitted a request for an investigation in the hope you will give us guidance.

Also I'd like to briefly express my concern about the discovery of how and where the master cryptographic encryption keys are stored in the Dominion system. As you're probably aware, Bibb released the database where they were discovered. I have some concerns about the potential for our elections. And so if you could please address that and give us guidance on that. Thank you.

MR. FERVIER: Thank you very much.

MR. COAN: Thank you, David.

Next we have Jamie Parrish. On deck we have Sarah Thompson.

MR. PARRISH: Hello, I'm Jamie Parish, Sandy Springs, Georgia. We Republicans like to throw around words like election integrity and party like it's candy. It's now the go-to political jargon that is our entree into and, if appropriate, our escape from any real meaningful conversations happening all over this state.

I've been embarrassed by my own county party, the Fulton County Republican Party, for

the last year, watching as witch hunts against people like me, whistleblowers -- if you're lucky they'll maybe return your phone call. It's become the norm. We may as well be smack in the middle of Maricopa County.

But today we sit in front of the body in charge of our elections here in Georgia statewide. Not a single one of them by Georgia law have jurisdiction over any Republican lawmaker, organization, or voter in this state. Why, you ask? That's because there's not a real Republican party here in Georgia, only a nonprofit corporation posing as a party.

There are several flagrant violations of chapter 21 election law happening. And the Georgia GOP itself is calling itself the party when it suits them and the corporation when it does not.

I beg of you, before this state is embroiled yet again in another hot, stinking pile of elector shenanigans, please insist that the Georgia GOP is forced to rectify their filing to be compliant under Title 21 which starts off, bare minimum, by listing our state committee members on the filing of the Secretary of State,

which to date it has not.

The Georgia GOP doesn't even have members and that is a violation of my state constitutional rights. Thank you.

MR. COAN: Thank you, Jamie.

Next we have Sarah Thompson. On deck we have Joseph Rossi.

MS. THOMPSON: My name is Sarah Thompson. I'm from Bullock County. As members of the State Election Board, you have obtained your positions through state public officials who have gained their seats through so-called state political parties or the so-called state political parties themselves.

You claim to desire to strictly follow our Georgia election laws under our Georgia Constitution. Article I is our public rights to protect us. Immediately next is Article II, Section 1, which is why we're purported to be here.

Chief Justice Bethel of the Georgia Supreme Court has recently reminded Georgians in *Camp v Williams* the absence of statutory authority is the absence of legal authority to act. You are in dire straits, along with our candidates, their

fees, and our ballots. You have not only failed to protect us but actively support a private Republican cooperation in conducting state election actions where there is no legal authority for the state to grant it.

False allegations of state authority clearly egregiously hurts all citizens. We're con -- we have told you all the way from the state government to the AG's office two years ago, down to election officials and staff recently just prior to qualifying.

I rise with direct First Amendment and Article I grievances against your body and the Secretary of State. Your actions appear to be outside state and federal laws, including 52 USC. Our system of government is being actively subverted by this corporate scheme that used to be a political party prior to 2014.

Here are the documents for this corporation. As was mentioned there are no members. We, now, are in our tenth year with no members of a state political party lawfully operating in the state of Georgia.

Please end the corporate election interference immediately. Thank you very much.

MR. COAN: Thank you, Sarah.

Next we have Joseph Rossi and on deck we have Tim Waters.

MR. ROSSI: I got a little shaking hand problem but I'll do my best here. All right. Good morning, Board, and I thank you for your service. And good morning other Georgia patriots.

I've got just two quick points to make. First I'd like to speak directly to the board about SEB-BI2023-0001. As you may recall, this complaint was filed 3/21/22. Yes, believe it or not, almost two years ago. It requests an independent investigation of the Secretary of State's election division. And that's changed over time due to some constitutionality questions, but we're asking you to not investigate an elected official, rather to investigate the election office of the Secretary of State, none of whom are elected officials. That's important and you guys know why you voted last time for some reasons relevant to that.

Regarding this case, the complainants want to offer our support. It is critically important to the integrity of the upcoming November

election. Per our earlier request, the complainants will provide all factual data, full disclosure, including e-mails and transcripts that will 100 percent prove that that election office violated Georgia election code.

Okay, number 2. Now, I'd like to speak directly to those who have fought factually, respectfully, and relentlessly for the truth over the last three years. As of 4/10/24, I got another one of these certified letters from the State Election Board. Every time I get one of those letters, my wife sets it on my desk and she says, You got another one of those certified letters. I hope you're not being indicted this time.

But anyways, as of that letter, it's now been factually proven that both the hand audit -- this is really, really important -- and the certified machine count -- yes, the certified count -- have both been found to be in violation of Georgia election law based on these findings, for those that have fought factually, respectfully, and relentlessly.

I'll close with one word: vindicated.

MR. COAN: Thank you, Joe.

Next we have Tim Waters and Jeff Jolly on deck.

MR. WATERS: Thank you. Thank you, Mr. Chairman. Thank you, patriots.

I wanted to follow on what Joe's line of thinking with this. And that is there are a hundred and fifty-nine counties in Georgia; correct? There are a hundred and fifty-nine election offices, false. There are a hundred and sixty election offices in Georgia. The 160th resides in the Secretary of State's Office. And at the time of the 2020 election, election -- Gabriel -- Gabe Sterling was the chief election implementation manager for this 160th state election office.

A hundred and fifty-nine election offices in Georgia are subject to investigation by the SEB. I'll -- Nadine Williams from Fulton County or Debra Presswood in Houston County, any of them can be investigated by the State Election Board. Now it's time for the board to treat Gabe Sterling as an unelected -- an unelected official the same way these county officials are treated. If he and this a hundred and sixty off -- office violated election law, which we can prove they

did, they need to be investigated.

With our backs to the wall, Secretary of State officer Sterling take -- took to Twitter and called millions of Georgia patriots liars. Mr. Sterling likes to hide behind his tweets, but when challenged he will -- will he have the courage to face the public? Will he accept an invitation to participate in a respectful discussion? So far he has not. He has hid and only -- his only method of reaching out to anyone is Twitter where he said in late 2023: We are dealing with the lies. Some spread them because they believe them, despite all the facts. Others spread them for one of three reasons: distraction, creative division, and continue grifting for dollars.

That's his accusations at us. We know the truth, folks. We know the truth. It's time to embrace the truth. Thank you, Board.

MR. COAN: Thank you, Tim.

Next up -- next up we have Jeff Jolly and on deck we have Bill Henderson.

MR. JOLLY: No prepared remarks. Just here to tell you can tell with this gray hair I've been doing this for a while. I started working

in elections when I was 20 years old in the state of Mississippi. I have worked in campaigns all over the Southeast and Midwest.

I can tell you that paper ballots that are hand counted are the only fair elections that are possible. We have a government who admitted at the Perry fish fry that any computer can be hacked. It's on video. You can see it. I suspect most of you in here have seen it.

Cheating is always going to occur, but we've got to eliminate it where we can. Paper ballots is the quickest and easiest way to do it and the least expensive. Thank you.

MR. COAN: Next up we have Bill Henderson.

On deck is Earl Ferguson.

MR. HENDERSON: Good morning. I'm Bill Henderson from Doraville. And I come here with one simple question about our voter roll to address to the board. And I also address this to the people gathered here who have a wealth of knowledge about Georgia elections and Georgia laws.

My question is this. How can there be entries, electors, registrations, or whatever you want to call them on the Georgia roll that have a

date of last contact that's more than ten years old? Okay. I'm a private citizen of this state and I'm not a lawyer, but it seems very apparent to me that there are two Georgia laws -- 21-2-234 and 21-2-235 -- and they were designed to keep the voter roll concise and accurate and prevent that from happening. I ask the board and the people in this room to correct my logic in this question if I -- if I'm wrong.

Briefly, since I'm just given two minutes here, Georgia law 21-2-234 mandates that the Secretary of State in odd number years compile a list of electors that have no contact for five calendar years and process them. If they do not respond to the process, they are moved to inactive status on the voter roll.

Georgia law 21-235 says that any elector in inactive status that has not voted or made contact for two general election cycles should be processed and if no response is received should be removed from the voter roll, okay?

By my research, which anyone -- anyone who looks at the voter roll can easily do, it is apparent that 21-2-234 was not compliant within the year 2019. And subsequently the inactive

voters subject to that law in 2019 were given a two-year grace for 21-235.

The result of this is that right now there are up to 80,000 and maybe up to a hundred and thirty thousand rows on the Georgia voter roll that should not be on it. They have had no date of last contact for the past ten years. And many in this room can testify better than me that presents a distinct vulnerability in the upcoming elections.

There is a wealth of knowledge in this room about Georgia election law and our voter roll. I ask anyone to approach me and correct me in my analysis. But if I'm not corrected, I will ask the board and the Secretary of State to address this issue with haste.

Thank you.

MR. COAN: Thank you, Bill.

Next up we have Earl Ferguson. On deck we have Kevin Muldowney.

MR. FERGUSON: Am I on?

MR. COAN: You're on.

MR. FERGUSON: Earl Ferguson. I'm a Fulton County resident and I challenge voters in Fulton County. I'm convinced that we have a problem

that is going to result in major voter fraud during the November election, and I want to tell you why.

In 2020 I challenged a number of voters who had left Georgia and moved to North Carolina and registered to vote there. According to Georgia law they are no longer eligible Georgia voters. And in 2020 the Fulton County Registration and Election Board approved my challenges and those people were removed.

In 2023, in December, I submitted a list of about 1800 Fulton County voters who had moved to North Carolina and registered to vote there. My challenges were rejected by the board. There are two Democrats on the board who were on both of those events.

I am convinced and I have heard that there is words being sent out by the Democratic Party not to remove people from the rolls. I believe that to be correct from my experience. If this is the case, we will probably be using the national voter -- excuse me, the national change-of-address list as a directory of individuals who are less likely to vote in Georgia and are therefore targets for fraudulent

voting.

This is not the only challenge we will get, but it is one that I feel is very important. I have submitted a complaint to the State Election Board regarding what Fulton County has done, and I would encourage them to process that before the November election.

Thank you very much.

MR. COAN: Next up we have Kevin Muldowney, followed up by Matt Rowenczak.

MR. MULDOWNEY: Kevin Muldowney, Milton, Georgia. France banned mail-in voting in 1975 due to fraud. Mexico banned mail-in voting in 1992 due to fraud. Belgium banned mail-in voting in 2018 due to fraud. Sweden, Italy, Ukraine, Russia, and Japan do not permit mail-in voting. No Middle Eastern country permits mail-in voting. No Latin country permits mail-in voting.

Some of these countries may allow this in some extreme conditions. But for the most part, they realize how problematic no-excuse mail-in voting can be.

There was a resolution put forth by this board to stop no-excuse mail-in voting and Ed Lindsey cast the deciding vote, defeating this

resolution. Ed is a paid lobbyist for Cobb and DeKalb counties as well as many other entities. I have an extensive list right here.

Mr. Lindsey was on the payroll of the National Vote at Home Coalition previously. I'm quite sure they would not have looked favorably on good old Ed voting in favor of a resolution that would threaten absentee voting in the state. No doubt that would have impacted any chance of his getting back on that gravy train.

Ed, dude, the time has come. You're a paid lobbyist. Your presence on this board is the very definition of a conflict of interest. Do us all a favor and resign today. Thank you.

MR. COAN: Next up we have Matt Rowenczak. And next --

MR. ROWENCZAK: Good morning, Board. Matt Rowenczak. As we grow up, especially in our adult lives, we often have to take an ethics class, whether that be in school, in business, and in law and in public service.

One of the frequent issues that are brought up in these classes is the issue of potential conflicts of interest, especially when we're talking about boards and committees. When you

take a government ethics course, they speak to this issue. They say one should avoid even the appearance of a conflict of interest.

Mr. Lindsey, not only do you have an appearance of a conflict of interest, but you actually have a conflict of interest. You have multiple conflicts of interest. To do this -- or because of this, you've had to recuse yourself from votes. There have been other instances where it relates to Cobb, DeKalb, or a statewide issue when you should have recused yourself which means we do not have a fully functioning board member.

We appreciate your service, but at this point, we need you to do the right thing and as to allow for someone to be seated into this position by someone who can fully function in this role and does not have multiple conflicts of interest. Thank you.

MR. COAN: Are you Katie?

MS. BURSON: Katie, here from Fulton County.

MR. COAN: Okay, you could hear me. I didn't know if you could hear me or not. Thank you.

Next, on deck, we have Michael Gordon.

And, Katie, thank you for your -- I'm glad you could hear me. That's good.

MS. BURSON: Okay. First I'd like to make a request that the SEB move to meeting once a month during this presidential year.

In light of the recent revelations regarding Ed Lindsey's actions as a member of Georgia State Election Board, it is imperative that he resign from his position immediately.

The evidence presented clearly shows that Lindsey has violated the board's own code of conduct by participating in and voting on cases involving counties for which he is a registered lobbyist. This blatant conflict of interest not only goes against the ethical standards expected of a public official but also undermines the integrity of the electoral process in Georgia.

Georgia law explicitly prohibits members of state boards from engaging in any business with a government that is inconsistent with their government duties. Yet Lindsey has repeatedly failed to recuse himself from matters involving DeKalb and Cobb counties despite being a registered lobbyist for these counties and a partner at a law and lobbying firm representing

them. This represents a serious breach of trust and raises serious questions about Lindsey's ability to impartially fulfill his duties on the SEB.

Additionally, Lindsey's connections to DeKalb County which has been a major proponent of mail-in voting policies and accepted a significant grant from left-wing nonprofits further call into question his objectivity and integrity as an SEB member.

His failure to access concerns -- to address concerns about election integrity issues in Georgia while representing clients involving questionable electoral practices is deeply troubling and undermines public confidence in the electoral process.

In conclusion, Ed Lindsey's actions as a member of the Georgia State Election Board represent a serious breach of trust and a failure to uphold the principles of impartiality and integrity that are essential to the functioning of our democracy.

Therefore I urge Lindsey to resign from his position immediately to restore public trust and ensure the integrity of future elections in

Georgia. Anything less would be a disservice to the citizens of Georgia and a betrayal of the public trust.

MR. COAN: Next up we have Michael Gordon, and on deck we have George Balbona.

MR. GORDON: Thank you. Michael Gordon, Fulton County resident.

Ed Lindsey is a paid lobbyist. The General Assembly has made their collective rule known that they do not want paid lobbyists on the State Election Board. He must resign now and if he does not then he should be removed in compliance with the will of the people and expressed through their representatives in the General Assembly.

Furthermore, we do not have honest and secure elections today. What we do have is notoriously inaccurate voter rolls, no-excuse absentee ballots, untrustworthy hackable machines -- just think of the DeKalb polls, Democratic primary 2022 -- and we have ample evidence of ballot box stuffing.

We need automatic address validation during registration to clean up our voter rolls. We need valid IDs to prevent ballot box stuffing. We need all ballots to be made public record so

voters can verify the results. We need to hand count, hand mark paper ballots in the precinct on election day. Nothing -- nothing less will restore confidence in our elections. Stop pretending we have honest and secure elections.

Please fix this. Thank you.

MR. COAN: Next up we have George Balbona and on deck Casey Cunningham.

MR. BALBONA: All right. I'll be brief. The primary duty of the SEB is uniformity. This seems impossible since the SEB and SOS have more turnovers than a pastry shop. Earlier this year the SEB announced that they had voted to not allow complainants to speak on their behalf during SEB case hearings. There is no documentation of this code for such a drastic and unconstitutional change to the fundamental operations of the SEB.

Now more than ever the SEB relies upon the information gathered during SOS investigations. However, there are no standardized procedures for conducting SOS investigations nor are there standardized training requirements for SOS investigators.

Sara Koth claims that SOS is currently

updating and changing standard operations. The SEB and the public should be hearing about this. According to SOS they do not maintain a database or spreadsheet of submitted complaints, SOS investigations, or SEB cases. Prior to the recent hiring of Alexandra Hardin, the SEB did not keep a complaint sheet, a spreadsheet either.

In short the SEB reinvents the wheel each time they hear a case against a Georgia county without any knowledge of previous rulings regarding similar cases and without any notice or notion about patterns of previous violations. Given the SOS and SEB's current M.O. of self-inflicted amnesia, I believe that the least that should be done is to create a public facing database of SEB cases and outcomes which would greatly alleviate the SOS from having to process so many open records requests.

Lastly, the only constant at the -- at all SEB meetings are the binders which all SEB members are provided and which are never retained or made available to the public. I think it would be a far better use of taxpayer money if these binders were retained as well as made available to the public.

Thank you.

MR. COAN: Thank you, George.

Next we have Casey Cunningham. On deck we have Mary Belle Hodges.

MS. CUNNINGHAM: Hi. My name is Casey Cunningham. I'm from Milton, Georgia.

You know, I -- I run a company and we serve our customers. And when we don't serve our customers, well, our companies go away.

And today I'm asking you as a board to serve us, your customers, your constituents well. And it begins with making a hard decision but an easy one. Why is it easy? Because you want the integrity to not be questioned by what you do every day. But it's in question right now in multiple ways as you just heard.

So I'm representing the fact that Ed Lindsey needs to resign and you need to force that resignation. And I'll give you three reasons why. The first one is Ed Lindsey's recent vote against halting no-excuse mail-in voting reeks of a blatant conflict. He serves as a paid lobbyist for numerous entities, and so how can we trust that his decision-making is impartial when his financial interests are so deeply entwined with

those he purportedly represents.

Ed Lindsey, your conflict undermines the foundation of our democracy and it erodes the public trust in our institutions. You need to resign.

Number 2, the ties between Ed Lindsey and the National Vote at Home Coalition cannot be ignored. The organization advocates for absentee voting, directly benefiting from policies that Mr. Lindsey supports. It's abundantly clear that his allegiance lies not with us, the constituents you serve, but it lies with the special interests that line your pockets, sir. So that blatant favoritism has no place in our halls of government.

The third reason you need to resign, the final one, this board. It is tarnishing you and your integrity and your credibility. How can we expect fair and unbiased decision-making when one of our own is beholding to outside influences? Your actions betray the trust of our community and it's casting a shadow of doubt over the legitimacy of our proceedings.

The time for action is now. Restore public trust. We cannot allow the corruption to

continue and to loom over the board any longer. So I implore each and every one of you to join me in demanding Ed Lindsey's resignation. Let us send a clear message. Let you send a clear message that you will not tolerate self-serving interests any longer.

MR. COAN: We have Mary Belle Hodges. Next is Richard Schroeder on deck. Thank you.

MS. HODGES: Good morning. Mary Belle Hodges, Gwinnett County.

Georgia State Election Board and Secretary of State, please take notice that you may exercise due care. Please take notice that I, as one of the people, have assembled with other people in order for the common -- to consult about the common good and by necessity demand that you give an open and public point of clarity as trustees and servants.

Please take notice that the people have all political power and all power that you have as trustees, servants, and agents of the people is delegated and granted through various constitutions as trusts.

Georgia Constitution, Section 2, paragraph 1: All government of right originates with the

people. It is founded upon their will only and it's instituted solely for the good of the whole. Public officers are the trustees and servants of the people and are at all times amenable to them.

Please take notice that the people have a right to regulate their internal government and have the guaranteed right to investigate, scrutinize, and make certain not only that an election isn't stolen but that it is administered in the manner prescribed by law.

If an election wasn't conducted or administered lawfully and correctly, John Locke and his two treatises for government declares that the whole election is invalidated and therefore no government is able to interfere with the inherent rights and remedies.

Please take notice that the people have a right to consult together for the common good, monitor, and instruct public servants and to receive assistance from others in America to better understand how to correct their service which must show that they are carried -- that they have carried out elections in a way prescribed by the people through law. You have the duty, you have a sworn oath to the people.

And I say let lord -- Lord, let justice run down like water and righteousness like a mighty river in Jesus' name.

MR. COAN: Thank you, Mary.

Next we have Richard Schroeder, on deck David Cross.

MR. SCHROEDER: Richard Schroeder from Hall County. Two minutes. I'm here today on behalf of my grandchildren. They deserve the same freedom and rights that were afforded me as I grew up in the United States of America. There's no justice in our nation. The Lord has given us dominion over everything in the first book of the Bible.

These Dominion voting machines have taken our dominion and stolen our votes for two decades. Our republic is in a serious downfall because of this.

I have given the Halderman report to you, Members of the Board. I hope that you have read it and know that these Dominion machines were designed and built to control elections. They are more insecure than the DRE system that they replaced.

I have the code book here where I find

multiple infractions of the law that are being totally ignored. This makes our current system of voting totally unconstitutional.

You are here to stand in the gap between a hundred and fifty-nine counties and the Secretary of State who certified his own election. You have taken an oath to prevent fraud and deceit. We, the electors, have no transparent vote in this system. It seals our paper readable ballots and elects winners through a QR code that is unreadable and proprietary to Dominion.

This is criminal. You need to vote today to unseal our paper ballots, count them, and if, in fact, there are discrepancies with the results of the 2020 and the 2022 elections, you must decertify these elections and do your job to restore our republic.

Let's -- let's pray. Heavenly Father, we come to you today in great distress over our state of our nation. We here in the state of Georgia have jeopardized the entire world for our corruption and justice and the Dominion Voting System.

You gave us dominion over everything on earth in the first chapter of the Bible. Lord,

we want our dominion back today. Lord, we pray for Dr. Jan Johnston who has stood strong for what is right while serving on this board. We're recruited to touch the hearts of the members of this board, sear their consciousness as they vote on issues regarding the integrity of our elections.

Lord, we pray for our new chairman. Give him the wisdom, discernment, and courage to make righteous decisions as he leads us forward. Lord, return our dominion. We pray in the mighty name of Jesus.

And I would like to have ten minutes. I've got more, but it is what it is.

MR. COAN: Thank you, Richard.

Next we have David Cross. On deck we have Marisa Pyle.

MR. CROSS: Be careful when you pray for wisdom. The Lord will give you problems to solve.

My name is David Cross. I'm from Gwinnett County. Ladies and gentleman, I want you to know that I appreciate you being here today, everybody here. I also appreciate the service of our board members, truly. I know it's an unpaid job.

However, I was informed recently that one of my proposed rule changes to strengthen chain of custody for mail-in ballots did not arrive in time. I mailed all three letters for the three rules with a return receipt request on April 10th. Two arrived on the 16th and one arrived on the 20th. It took ten days for one letter to arrive by mail to show how mail ballots securely arrive from the same state. I could have crawled here faster from Suwanee, Georgia.

Chain of custody is lost when ballots are mailed. To prove this, think about when -- on election day when you go in to vote, you hand somebody your ID to prove who you are so that they then give you a ballot or they give you a ballot card. You then go vote. You then put your ballot into -- or deposit it into a secure receptacle. Never once is it ever lost. I mean, you've always got eyeballs on you.

And when we vote by mail, there is no guarantee that a ballot mailed is actually received by the person it's addressed to. When ballots are mailed, they're sent on a regular size -- on an irregular-size envelope with a logo on the outside advertising "I'm a ballot," okay?

If I return -- if -- if a return receipt request document is mailed to this election board and it can't be received in less than ten days, why should I believe that a first-class postage stamp is going to guarantee delivery of a ballot? We should be using Federal Express or UPS for guaranteed delivery, and they also have repercussions if they don't deliver it in time.

Opponents will say that mailing ballots with secured delivery is just too expensive. If the state paid for mailed ballots in 2022 for the election and for the runoff, it would've cost about $6 million. Granted that's not a -- that's not a trifling amount of money, but it is a rounding error in Georgia's $77 billion budget.

The board has a duty not to the people who appointed you but to the people of Georgia. I ask you is $6 million too high a price for secure elections? Is this cost too high for the price of freedom? Thank you.

MR. COAN: Thank you very much.

Next up -- next up we have Marisa Pyle. On deck we have Lana Paz.

MS. PYLE: Hi, Board Members. My name is Marisa Pyle. I am a senior democracy defense

manager at All Voting is Local Action which is a nonpartisan organization that advocates for policies and legislative priorities that expand voter access, not limit it.

I'm here today in opposition to proposed amendment of recount rule 183-1-15-.03 which focuses on hand counting for audits and recounts. As an observer I've spent over 20 hours monitoring hand recounts in counties that have opted to perform them in recent elections.

My experience, along with an overwhelming weight of expert evidence, makes it clear that hand recounts as a main tool for audits and recounts, either discretionary or mandated as covered under this rule proposal, would make results more subject to confusion, less accurate, take longer, contribute directly to burnout from election officials and county offices, and open the door for election subversion.

The simple fact remains that humans, experts that we are in many things, are very bad at sequentially counting pieces of paper, something anyone who has tried to count pages, dollar bills, or any other seemingly simple task can prove.

A study from Rice University showed that with only 120 ballots, an exponentially lower total than any recount would contain, participants accurately counted the results of two races only 58 percent of the time.

In the real world of elections, in Mojave County where Arizona's hand-count test run took place, a deck of 850 ballots with 36 races for ballots produced errors in 46 cases. In Spalding in the March 2024 presidential primary with only one race on the ballot, it took poll workers three days to count only 6,700 ballots.

The manpower, funding, time, and patience hand counting would require to conduct on such a large scale is not only daunting, but it would add also an impossible task to the plate of election officials where they were already facing unprecedented scrutiny, potential staffing shortages, and increasingly contentious certification processes.

It shouldn't be lost that in November with state, local, and federal races on the ballot, we will see hundreds of ballot styles, which will be lengthy, along with higher turnout than the 8.8 percent seen by Spalding in the March

primary.

As Georgia heads toward the general election where we are again poised again with the watchful eyes of the nation, this rule would delay results, inject uncertainty due to inevitable human error that could easily be exploited by bad or insincere actors and result in not only state-level but national ramifications.

For the sake of democracy, I urge you to reject this proposal. Thank you.

MR. COAN: Thank you, Marisa.

Next up we have Lana Paz. And on deck we have Rachel Lastinger.

MS. GOITIA-PAZ: Good morning, Mr. Chairman and members of the State Election Board. My name is Lana Goitia-Paz and I'm the Georgia campaign manager for All Voting is Local.

I want to address the position -- the petition to amend rule 183-1-2-.02 regarding election certification. While the proposed amendment's intent may appear commendable at first glance, I believe its implementation would introduce unnecessary complications and risk to elections in Georgia.

First, the requirement for election

officials to conduct a reasonable inquiry for certifying election results could significantly burden already stretched resources and staff. Our election officials work tireless -- tirelessly to ensure fair and accurate elections within tight timelines. Introducing an additional layer of inquiry could slow down the certification process, leading to delays in finalizing election results and potentially undermining public confidence in the outcome.

Worth noting is that the subjective nature of the reasonable inquiry standard opens the door to interpretation and inconsistency across jurisdictions. What one official deems as a thorough inquiry may differ from another's, leading to disparities in certification standards and creating confusion among voters and stakeholders.

Additionally the potential for disputes and legal challenges arising from disagreements over the sufficiency of the inquiry could further exasperate tensions and undermine public trust in our elections process. We cannot afford to introduce uncertainty and contention into an already polarized political landscape and provide

further cover for conspiracy theories to arise.

In conclusion, while promoting transparency and confidence in our election process is admirable, the proposed amendment is not the appropriate means to achieve it. Instead I urge the board to focus on supporting our election officials with the resources and guidance they need to carry out their duties effectively without imposing unnecessary burdens.

Thank you.

MR. COAN: Thank you, Lana.

Next we have Rachel Lastinger. On deck we have Anne Grey Herring.

MS. LASTINGER: Good morning and thank you for this opportunity to speak and to share my concerns with you. My name is Rachel Lastinger and I'm the associate director of The Voter Access Project with the ACLU of Georgia.

The Voter Access Project works to ensure voting is easy and accessible for all Georgians. And I am here today to address several of the petitions to amend the rules that will be the focus of tomorrow's agenda.

While we are in opposition to each of the petitions, I -- there are three that I want to

specifically highlight. The petition to amend rule 183-1-2-.02, addressing the definition of certifying of a primary election or runoff seeks to provide more clarity to the process, which is appreciated, but the proposed definition is far too vague.

As the code stands, board members play an active role in our certification process by certifying that the results presented to them by the elections supervisor represent a complete and accurate count of the ballots. The supervisor of elections and their teams are the ones directly overseeing the counting and tabulation process. If an election is voted to not be certified, there needs to be a very legitimate reason borne out by the evidence and based on specific reasons delineated by the legislature.

When an election is not certified based on speculation, this sows fear and distrust in our democratic process. This increase of fear and mistrust also creates more harassment towards our election officials.

The definition proposed in this petition includes "after reasonable inquiry" without a definition of that phrase. It is very vague what

type of inquiry could be done in the time frame that it probably has to happen within. This could give reason for speculation and rumors of incidences of election fraud to be used as cover to not certify important election results, giving legitimacy to these false claims.

At a minimum "reasonable inquiry" should be more specifically defined. The definition also requires certification to assess that all votes cast in that election were counted. This also needs to be more clear as it could require all provisional ballots, for example, to be counted even if not cured. It also doesn't account for absentee votes and UOCAVA votes being counted on a different timeline than in-person votes.

The petition to adopt new rule 183-1-14-.02 on the increased requirements for drop boxes and absentee ballots creates requirements above and beyond what is required by statute to use a drop box. The petition creates, in effect, a third check of ID when a voter chooses to submit their absentee ballot by an available method other than utilizing the USPS services.

It would essentially create a new class of ballots to be treated as provisional ballots as

it is unclear who is making sure everyone that votes by drop box shows their I.D. first when those ballots should just be counted as a regular absentee ballot under Georgia Code.

This rule change could easily disenfranchise absentee voters because of an administrative error and creating unnecessary burdens on voters who need to cure their ballots by proving their identity for the third time in order to vote.

(Gavel)

MS. LASTINGER: The petition for amendment of recount rule 183-1-15-.03 --

UNIDENTIFIED SPEAKER: Time.

MS. LASTINGER: All right.

MR. COAN: Thank you.

MS. LASTINGER: That's all. My colleagues already spoke. I'll let them (indiscernible).

MR. COAN: Thank you, Rachel.

Next up we have Anne Grey Herring. On deck we have Tom Talbot.

MS. HERRING: Good morning. My name is Anne Grey Herring and I'm the policy analyst for Common Cause Georgia. We're a nonpartisan grassroots organization with over 26,000 members across the state.

As a nonpartisan organization, we care about the process not the results. And what we have seen about the process in Georgia is that our elections are safe and secure.

And the --

(Audience sounds)

MR. FERVIER: Let's be respectful to all of our speakers or we'll cut off the public comment.

MS. HERRING: The biggest danger comes from unnecessary and sometimes unlawful interference with that process. We strongly caution against the proposed rules concerning the certification process. There is significant danger in disrupting and unnecessary -- unnecessarily delaying it.

We also want to speak to a couple of other areas that we think the State Elections Board could give further guidance on. One is voter challenges. These have become a significant issue in our state. We expect more in the lead up to November. And counties are handling them differently.

There's ambiguity on the proper procedure and the proper threshold at two different levels. One for the challenge to receive a hearing and

then again whether the challenge should be sustained. We think the State Election Board could provide clarification on these.

And another area of clarification is that a board cannot invert a challenge from a 229 to a 230. That's what we've seen in a number of counties. The onus is on the challenger to bring it under that area of the statute.

Additionally we think the SEB could provide guidance on SB-222 that passed the last -- in last year's legislative session. This is about the appropriation of funds for election offices. To properly prepare for the 2024 elections, officials in our counties need a clear understanding of what resources are available to them. As a specific example, federal government funds are specifically allowed as an acceptable funding source under this law, but the law also states that counties cannot solicit funds. So counties who didn't know what the process is to ensure --

MR. COAN: Thank you.

MS. HERRING: Thank you very much.

MR. COAN: Thank you, Anne.

Okay, next up we have Tom Talbot. On deck

we have Sandra Burchardt.

MR. TALBOT: Good morning. First I'd like to thank the volunteers that serve on this board. It's a very, very responsible position. Having served on several nonprofits, I -- I take that responsibility and I hope you do with the gravity that is imposed upon you when you select -- being selected to do this.

I was unaware of the conflict-of-interest issue, but I would really have a problem in my own world being on a board if I had any conflict of interest. But let me get to the point.

Last year I came and I testified and I made my point. I went to lunch with friends and I said, I made -- I asked the wrong question because when I asked the question all I really received was smug looks from the board. And coming from the private sector, define a problem, fix the problem.

My question to the board today is you're familiar with the Halderman report, you're familiar with the Rossi report, you're familiar with the issue with the voter rolls, how much evidence do you need to see before you do something?

Your re -- your responsibility is representing the population of this state to do the very important job you are given, and that's oversight of our election system.

Thank you.

MR. COAN: Thank you, Tom.

Next we have Sandra Burchardt. On deck Jason Frazier.

MS. BURCHARDT: Thank you. My name is Sandra Burchardt and I am passionate about truth.

When I witnessed the videotape of the State Farm Arena and watched my vote and the votes of many people who died be tarnished, it struck me to my core. And I pray that this board will have the courage to make a difference because you have been placed in such a time as this to do something. I thank you and I pray for your courage.

I want to thank you for volunteering. It's a very courageous thing you can do. You are watchdogs over the Georgia elections. Without fair and transparent elections, we all lose our freedom.

On March 18th of this year, you, Ed Lindsey, recused yourself from voting on a major issue

brought before the SEB by Mark C. McCarthy, the chairman of the Republican Party. Why? Was it because you recognized that you could not be an effective member of the SEB because you are well paid by lobbyists with conflicting interests?

I believe you even notified house speaker Burns about recusing yourself from voting on that issue. Well, I appreciate you coming forward with that recusal. I believe that it is evidence that you need to resign and be replaced as soon as possible. Important elections are coming up and people in Georgia need credible people in positions to protect our vote, not compromised ones. Thank you.

MR. COAN: Okay. Go ahead, you're on.

MR. FRAZIER: Yes. My name is Jason Frazier from Fulton County. I definitely wanted to echo what a lot of people have been saying. We need guidance. This board desperately needs to give counties guidance on how to properly maintain the voter rolls, how to properly adjudicate voter challenges, how to clean the voter rolls themselves so that we -- myself and many others in here -- do not have to spend countless hours trying to find the tens of thousands of people

registered multiple times within the state.

And as many of you saw when I wrote -- I testified in the state ethics committee a few months back, I showed evidence that in an afternoon I found 37,000 people that lived in Georgia, filed a change of address to either Florida or North Carolina, and are then registered at their new address.

These people have done nothing wrong. However, Georgia failed to take them off the voter rolls in Georgia. They should not be registered in two states. And as you heard Mr. Ferguson say, he turned in several people in Fulton County who moved out of Fulton County -- great, people move all the time -- they now live in North Carolina. Fulton County refused to take them off the voter rolls. They said, Well, you know what, they've lost their residency but not their registration. I view that as a problem. I mean, last time I checked, I need residency to have a registration in this state.

And furthermore, I did more analysis on -- on many of those and I did find people that were given credit for voting in both Georgia and Florida. This is what you're enabling. This is

what Fulton County's enabling. We need this cleaned up.

We talked about investigating the Secretary of State's Office. It needs investigating because they -- if I can find in an afternoon 30-some-thousand people registered in two states, the Secretary of State's Office damn well ought to be able to figure that out too. We've got a problem.

I am unpaid. The Secretary of State's Office is paid. They have employees. They need to be cleaning these rolls. And I only looked at two states at that point in time. There are a lot of other states. People move everywhere. And we have to pay for voter rolls in Georgia, whereas Florida and North Carolina, Ohio, and many other states have free voter rolls which allow this to happen.

But long and short of it is I shouldn't be doing this. The state needs to. I expect your help in that.

Thank you.

MR. COAN: Thank you, Jason.

All right. Next up Lucia Frazier and on deck we have Garland Favorito.

MS. FRAZIER: Good morning, everybody. Good morning, Board.

Like everybody else said, Mr. Lindsey, really appreciate your service, but the votes as I've seen in the last couple years that you've made are not aligned with our conservative values.

Another note, open records requests, voter rolls, the prices are going up. That's an issue. In other states they're free. That's something I think you guys need to take up and help drive down whatever's doing that.

And the voter rolls are full of errors anyway, just like you just heard. So what are we paying for?

And finally I feel like the biggest theme that's been going on for, I guess, four years now, it would -- in people of positions of power, it's stonewalling. And that's all that's been going on.

You have Mr. Rossi's case. It's been ongoing for the last few years. I've come in here and listened to some of the meetings, and you've spent hours discussing minute details, like was someone standing a hundred and

forty-nine feet or a hundred and fifty feet from the poll? You strain a gnat, yet you swallow the camel.

We are poll workers, many of us in here. We're data analysts. We've shown you indisputable data. So it's easy to see when you close your eyes. If someone is pulling your strings, resign and let someone else try.

Both parties have corruption. We simply need people who can make good choices independently. And in response to some of the ladies about the rules tomorrow, I will say any error in hand counting is minuscule compared to a black box computer that's manipulated and our paper ballots are hidden.

The work to hand count is minuscule when our republic is at stake. And the money to hand count is minuscule compared to the cost of the machines and maintenance.

Thank you very much.

MR. COAN: Thank you, Lucia.

Next up we have Garland Favorito and then Bob Coovert.

UNIDENTIFIED SPEAKER: Who?

MR. COAN: Well, it looks Coovert,

C-o-o-v-e-r-t.

MR. FAVORITO: Coovert not Coovit.

MR. COAN: Coo -- okay, Coovert.

MR. FAVORITO: Thank you, Mr. Chair. I am -- have written -- I'm co-founder of Voter GA. I've written two letters to you about SEB2022-348, the complaint that explains how Georgia's voting system has a QR code counting error that caused the Tennessee Secretary of State to stop using the same system we use here.

At the December 19th SEB meeting, the complaint was postponed because deputy director Michael Barnes was un -- unable to answer questions about it. At the January *Curling v Raffensperger* trial, Mr. Barnes admitted under oath that he is by no means an expert in voting system applications, cybersecurity, malware, or how malware can defeat logic and accuracy testing.

In my February 11th letter to you, I tried to alert you that Mr. Barnes' sworn testimony proves he would not be qualified to answer questions about this complaint.

At the February 13 SEB meeting, I planned to alert you again before the case was heard, but

the former chair had removed all public comments on the agenda. At that meeting Mr. Barnes answered questions about the complaint anyway and the board voted three to one to dismiss it without hearing from the complainants.

It's clear to us who saw that that Mr. Barnes had not read the complaint, did not understand its contents, had not spoken with the complainants, and did not perform an investigation. He did not know that the complaint showed audit logs had 65 of 67 counties surveyed had that error. He didn't do a root cause to find the problem, didn't perform a system evaluation. He was not aware that thousands of errors were found in Gwinnett, Floyd, and DeKalb, the county where the system declared the wrong winners.

Dr. Johnston had to explain to Mr. Barnes that the QR code error causes the system to accept a ballot and not count it and that is undetectable with our current reconciliation procedures.

So therefore because of the importance of this complaint, I ask you to reopen this case, conduct a legitimate investigation with your own

investigator, and hear from the complainants just as the board used to do before the former chair eliminated complainant testimony to suppress the evidence.

Thank you.

THE BOARD MEMBERS: Thank you, Garland.

Next up is Bob Coovert and on deck is Paul Hersay. Paul Hersay?

MR. COOVERT: Good morning, Board. Thank you for the opportunity and thank you for your efforts. There's a lot of themes going around this room today and one of them is the investigation of the Secretary of State's Office.

Now, I would encourage each of you if you haven't read the closing arguments from the *Curling v Raffensperger* case, it helps you understand why these things exist. I'd like to shed light on one. I was recently having a discussion with somebody in Gilbert County, an election official, and the courthouse was recently hacked there about a month ago, the election office hacked. Fulton County hacked, shut down for days, sometime -- some departments weeks. But we don't have any cybersecurity issues with our election systems, right?

So in the closing arguments, who was actually responsible for cybersecurity? They asked Mr. Sterling. Mr. Sterling said, Oh, it's is a component of securing our election systems. Mr. Barnes says it's not him. He's not responsible. Mr. Sterling said it's not him. He's not responsible. Mr. Barnes has no responsibility at all which is quite odd since he is a person -- the guy who is responsible for the machines and the administration of the system.

It must be able Merritt Beaver, the CIO, right? He would be the person in charge. Well, under testimony he said, No, I'm not in charge. I've outsourced it all to Dominion. This is under testimony in front of Judge Totenberg. Look it up. It's in the closing arguments.

He says he would not have been involved in the security of the Dominion systems, so Mr. Barnes was also wrong about that.

Mr. Hamilton also said, as the CISO of the Secretary of State's Office, that he handed it over to the Dominion company. However, Dominion disagrees with that.

Mr. Sterling also said it is Dominion, but then he said, Well, it's also the responsibility

of the county, suggesting the state itself has no responsibility for cybersecurity of our election systems. The counties I've talked to don't agree with that.

Well, Blake Evans, who's the state election director, says, No, no, it's not really Dominion because when Dominion recommends that we do things and we disagree, we just make our own decision.

Now, here's the important piece of all of this. In -- in testimony all of these leaders in the Secretary of State's Office stated that they're -- they have not identified one person in the Secretary of State's Office with any cybersecurity training, any computer science background who was involved in any decision on how the system gets used.

So, Board, I ask you how can you do your job when the Secretary of State's Office nefariously does theirs?

Thank you.

MR. COAN: Thank you, Bob.

Next up we have Paul Hersay. On deck -- on deck we have Ginger Hurmence.

MR. HERSAY: Thank you, Board Members, for

your service and I appreciate everyone here today. I just have some brief points because everything I wanted to say has probably already been said before.

But profiting from any decision by any state election board member is at the very minimum unethical. No-excuse absentee ballot voting has been proven to be rife with fraud and abuse. Early voting causes chain-of-custody issues that cannot be resolved. And the state of Georgia needs to move to election day voting with hand-counted paper ballots.

Thank you.

MR. COAN: Thank you, Paul.

Next up we have Ginger Hurmence.

MS. HURMENCE: The word is maladministration. I was minding my own business, working to pay the bills, going to church, raising my family, paying taxes, you know, just living. I had no interest in politics. I always took an effort in vetting my choices and always voted. For four decades that's about all I did. Shame on me.

I trusted that my representatives that we placed in office would represent us. Then 2020

happened. The fraudulent election in Georgia in our state -- not Michigan, not Ohio but Georgia -- I've lived in Georgia for over 40 years. I know my state.

I started reading, listening, talking about what happened. Then I read a document and summary from the testimony from then-Senator William Ligon which presented. On the bottom of page 12, it says -- and I paraphrase -- the 2020 election was so fraught with systematic irregularities and voter fraud that it should not be certified.

So I thought surely the governor would intercede and get this straight, right? But he didn't. I thought surely Senator Loeffler wouldn't certify it, but she did. Surely the most G-O -- most of the GOP legislators would hold a special session and come to rescue, but they didn't. Surely the Georgia courts would intervene and straighten things out, but they didn't.

So surely the State Board of Elections would hear our evidence and take action. But no, you haven't. Most would say -- even our own party have said, Oh, we must move forward. But we

can't and we will not let this slide. This is the moment -- it is the most pressing issue in our state and our country and therefore the world.

If we change from the untrusted BMDs and QR code system to a secure grade hand-marked paper ballot system like Florida, Alabama, Idaho, Montana -- the ones they're using -- you'd see people begin to trust our system again. But, no, here we are four years later to trust the system. And we are stuck with this crap.

So I will end with this. Here's the word, maladministration, again. And there are -- there are consequences for this failure to act and that is what you're doing.

Thank you.

MR. FERVIER: At the beginning of the meeting, the chair announced that there would be one hour of public comment. Thirty people would be allowed to speak. However, 44 have signed up to speak today which should not have happened, but without dissent the chair will allow the additional speakers to have two minutes each.

Hearing no dissent, the chair would entertain a motion for a five-minute recess.

MR. LINDSEY: (indiscernible)

MR. FERVIER: Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: All in favor?

THE BOARD MEMBERS: Aye.

MR. FERVIER: So moved. We'll recess for five minutes, then we'll continue with comment for the last 14 speakers.

(Recess)

MR. COAN: All right.

MR. FERVIER: Thank you. That was a little bit longer than five minutes. We seem to be going over more -- yeah, we do have 14 more speakers. The board has been very generous in allowing several people to go over their time. I ask you to please, please, please, keep it to two minutes.

And when you hear that first light tap, that means your time is up, so please wrap it up pretty quickly after that. And if we keep down the clapping and standing and all that stuff, it will help get us back on track a little bit too, please.

MR. COAN: Okay. All right. So next we have Field Searcy on deck and then we've got Sam

Carnline in the hole on deck. So appreciate you guys.

MR. SEARCY: Good morning. My name is Field Searcy. I'm from Grady County. I'm with Georgians for Truth. We've been before this board several times about a solution for our unsecured election system.

And we're going to repeat it again today, that Georgia provides in three three two -- 21-2-334, that our county supervisors can, for any reason, go to hand-marked paper ballots. And we have the hand-marked paper ballots already. It's called the absentee provisional emergency ballot. It's the same ballot. It's just the procedure's handled and the chain of custody is handled differently.

But we can go to hand-marked paper ballots today. We can scan them on the current scanners and get results that night. But we can also do a hand count before we certify these elections so we can have -- so we can have confidence and trust back in our elections.

We often go complain about Washington D.C. is the swamp. We have a swamp right here in Atlanta, Georgia. It starts with our election

system, our Secretary of State's Office. It needs to be investigated. We have members of this board that need to resign for a conflict of interest. We've got lot of problems.

But, folks, you can make a difference here. You can clarify the rules for these counties. You can say, You can go to hand-marked paper ballots. It's in the rules. Let them do it. Give us the freedom.

And we also have corruption here in Fulton County. The counties are not being held accountable to the election laws. That needs to stop. Let's drain the swamp.

Thank you.

MR. COAN: Thank you, Field.

Next up we have Sam Carnline and then Russell Carlisle on deck.

MR. CARNLINE: Thank you. My name is Sam Carnline. I'm from Grady County. We grow cotton, peanuts, and pine trees in Grady County, and you can make a lot of paper ballots out of the pine trees in Grady County.

21-2-300 states that the elector will be able to read their ballot. What we have is a spoiled ballot because it's going into a QR code.

In 2024 we will be voting still where the tabulator counts the QR code. I cannot tell if I voted for Mickey Mouse where it says Micky Mouse was in my QR code or not. And how can any election superintendent in any county certify an election to where they can't tell if it says Mickey Mouse in the QR code either.

Now, our legislators have let us down. Our judicial system has let us down. Our executive branch has let us down and the Secretary of State never picked us up.

Now, if it's all right for the former president of the United States to be raked over the coals and be investigated, then why is it not all right to have the Secretary of State's Office in the state of Georgia investigated? He can certify his own election. That needs to be addressed.

Now, here it is. It's one word. It's called trust. 62 percent of Georgians, according to a Rasmussen poll, do not trust the election system in the state of Georgia. As my friend, Field Searcy, just said, in 21-2-334, it states that if it's impracticable to vote on the machines -- and, by golly, if Eric Holdeman in

that crowd hadn't shown us that it's impracticable to vote on these machines, then I don't know what impractical means -- we need to go to the hand-marked paper ballot, count it on election day at the precinct to bring trust back to the Georgia voter because, frankly, folks, there's no way to clean the swamp.

And our republic is a farce if we don't have the representative form of government that our forefathers designed for us.

Thank you.

MR. COAN: Thank you, Sam.

Next up -- thank you. Next up, we have Ginger -- oh, no, excuse me. We have Russell Carlisle is up and then we have Nancy Saunders on deck. I'm sorry? Oh, you signed up twice. Sneaky devil you are.

MR. FERVIER: That'll make it two minutes shorter.

MR. COAN: Yes. Thank you.

All right, next up is Nancy Saunders.

Nancy, please come up.

And then on deck we have Gary Coates, please. Thank y'all.

MS. SAUNDERS: Nancy Saunders, Fulton

County. And first of all, I thank you all for the work that you do here. And I'm also sorry that I'm here because I've known Ed Lindsey for a long, long time.

And as a state -- as a member of the State Board of Elections, you're required to avoid any appearance of conflict or impropriety, and we all know that. Unfortunately, Ed, you voted on cases that involve counties where you were also a hired lobbyist and it certainly appears to be a conflict of interest. I've read the arguments. But it's impossible to come away with anything but that. That's resulted in a breach not only of the SEB code of conduct but really more importantly and you've heard it, it's a breach of trust for the very voters you were appointed to serve and cannot do that.

Georgia voters must trust that we have free and fair elections. We must. And, Ed, you've broken that trust. And for that reason I respectfully ask you to step down. Thank you.

MR. COAN: Thank you, Nancy.

Next up we have Gary Coates and on deck we have Allyson Rose Becker.

MR. COATES: Good morning. Thank you. This

is going to be really brief because most of what I wanted to say has already been said, and I don't want to repeat myself -- or them.

First I'd like to address -- there was a young lady up here that spoke, the lobbyist. Process is not more important than results, okay? So I don't know what school you went to, but maybe you ought to go demand a refund, okay?

I would just like to say that, you know, this board and our legislators have effectively stonewalled us. They've run the clock out. There has been absolutely nothing meaningful done at all in three years.

Our voter rolls are still not cleaned up. The QR codes are still on the ballot and they're illegal. The software has still not been updated. By the way that would've cured the QR code problem. Not that I endorse Dominion, but at a minimum that software had to be updated.

Now we're being told that this will all happen in 2025. Wow. I kind of -- I don't know, I find that kind of interesting. And I don't think you need to put two and two together to figure that out. It's a disgrace.

We want our state back. It's criminal what

is happening in this state. And I came down here from a pretty darn corrupt state. They can't hold a candle to you. When I came down here, I didn't want to get involved in this stuff anymore, but here I am. I'm retired. My wife is at home on Saint Simons Island.

This has got to end. Got to end.

MR. COAN: Thank you, Gary.

Next up we have Allyson Rose Becker and on deck we have Derrick Blasingame.

MS. BECKER: Hi. I have worked in the -- for the last three years for some of the nation's top election integrity experts. And you know what? I can tell you from a national perspective your state is one of the most egregious I've seen.

People -- I have heard incident after incident after incident of things that shouldn't be happening in any state. They do happen in all the states, but they're happening way too much in this state.

You want to know why two-thirds of the country didn't trust the results of the 2020 election? Right here. Georgia. I mean, you've got a small county like Floyd County, they had

under 3,000 votes not counted. Oh, but you want to tell us that, oh, that wouldn't have affected the presidential election. It did. It's also affected the down ballot races. How many people should be serving -- regular people, we the people serving and their not because of fraudulent elections?

And you want to know what? People in Georgia, they don't know if their votes even count anymore. Do they count? If they are counted, are they going to be canceled out by a dead voter or duplicate ballot counts or anything else?

And you do know what? I was a lifelong Republican, but you know what? The Democrats and the Republicans, they're the same. The Democrats at least tell you what they're going to do to you. The Republicans say, We're for election integrity, we're your friend, and they stab you in the back.

Now, you want to know what? I do have hope today. The people, we the people, as the founding fathers intended, are going to take back our elections and we're going to take back our government.

And you know what? We're not going to be beholding to career bureaucrats like Ed Lindsey. And we're not going to be beholding to career politicians like Raffensperger and Brian Kemp.

Mr. Lindsey, please resign.

And, everybody, we need to vote Amish. Get rid of the machines. They're the big problem. And you know what? God will win in the end and we will win. You people are the refounding fathers.

MR. COAN: Thank you, Allyson.

Next up -- next up we have Derrick Blasingame and on deck is Ginger Bradshaw.

MR. FERVIER: She left.

MR. COAN: Okay. Is there -- is Derrick Blasingame here? He left, okay. So how about Ginger Bradshaw? You're here, okay. You're up.

Okay. And on deck after Ginger we've got -- is it Kirk Pumphrey? Thank you.

MS. BRADSHAW: Hey, my name is Ginger Bradshaw. I live in Sandy Springs. And first of all, I want to say to y'all and I want to say to everybody, we are in favor of every legal vote to count. We're not here to try to disenfranchise anyone. We want the homeless to count if they --

to vote if they want to vote. We want every legal person to count.

But we don't want 15 people in a house that's boarded up that's vacant to count. We don't want people registered to post office boxes to count. But that's just my overall thing.

But I want to thank all of you for serving. I know it's a lot of work. I see some of you at lots of different meetings to learn and to see what's going on.

But as you know, our elections are a mess. I don't think there's anybody in here that can say that they aren't. So -- and the way I look at it, we need to clean our voter rolls, we need to go to paper ballots, and we need to have an ethical State Board of Election.

And the first up is easy. And, Mr. Lindsey, I -- I don't like -- this isn't mean-spirited, but just please resign. And then you can go play golf, go do whatever it is you want to do because -- because of your conflicts of interest. And I don't blame you for giving up a lucrative job to do this nonpaying job, you just can't do both.

And so as of now, we do not live in a banana

republic but we're very close. If -- if we don't have our elected and appointed officials -- I mean because this is a huge gargantuan mess. It's not like we've got this little problem over here, we can clean it up and everything will be wonderful.

But like I said, the first thing we can do is have an -- okay.

But anyway, thank you very much.

MR. COAN: Thank you, Ginger.

Next up we have Kirk Pumphrey. Is it Pumphrey? Anybody? Is it Kirk? He doesn't want to speak. Okay. Thank you. Yes. Oh, okay, okay. No problem.

All right. Next up we have Gail Lee and on deck we have Joan Webb.

MS. LEE: Hi, I'm Gail Lee. The notice letter the State Election Board sent Mr. Moncla was posted on social media. And that letter states he will not be given an opportunity to speak to the case or refute the statements made by investigators.

This, I realize, is standard but although questionable SEB policy. But you're not dealing here with a felon voting or person registering to

vote using a nonresidential address. You're dealing with the viability of the state's election and it has consequences for our entire nation.

To only consider the facts presented by investigators employed by the Secretary of State who bears responsibility for elections and who has a vested interest in exonerating judgment would be an obvious stacking of the deck in the politician's favor.

Therefore as a citizen who is concerned that my civil rights may have been violated by election systems and/or personnel, I strongly recommend the plaintiff or complainant be granted a fair hearing, be allowed to speak, and if necessary refute or supplement investigator findings.

We the people want the truth and we do not trust processes that suppress our voices. And thank you for extending the time.

MR. COAN: Thank you, Gail.

Next up we have Joan Webb. On deck we have Pamela Reardan.

MS. WEBB: This is basically a "me too" speech. I've met Ed Lindsey. I like him as a

person. And then I found out that he works for DeKalb County as a consultant as well as Cobb County. And its difficult for anyone to serve two -- two bosses, two supervisors.

And on those instances when a recusal was done, it's has hindered the board in making a decision as far as two against two and in making any important decisions. So I do reiterate what others have asked. Thank you.

MR. COAN: Thank you so much, Gail. I mean Joan.

Okay. Next up is Pam Reardan. On deck is -- and last but not least is Amanda Prettyman.

MS. REARDAN: All right. Thank you very much. I'm Pam Reardan. I'm actually a candidate. So it's important that -- to me it's been important all my whole -- my whole life that we have fair and proper elections and only legal votes count.

I am desperately afraid that illegals are going to be allowed to vote. I have talked to the Secretary of State's Office to their face. Oh, yeah, we're good. You know, we get the information from the DDS.

I have gone to the DDS and tried to do an

open records request. It's impossible. It's impossible to find out if they're registering illegals. The other -- I'm -- I was -- I'm -- I'm legal. I'm from Canada, but I'm legal, okay? So I want you to know I went through the process. So this is a real sore point with me when people who are not legal vote.

So I have found out some information that the -- all those apartment buildings, a lot in Johns Creek that are -- been built, 30 percent of those are being bought by NGOs and the people you see illegally coming into our country and the UN and the NGOs are providing their airfare, they're living in those. And they're getting work permits. And they are going to vote. I -- sure as I'm standing up here, they're going to vote.

Now, let me just say on Ed Lindsey, the code is 21-5-74. Do I have to read the code? I have the code. You must resign.

The other -- the last thing is I want to say I have a real good solution to the voter roll problem. Let's delete the whole voter roll and and everybody -- everybody sign up with your legal address and your legal ID to vote this time. So let's do that. We can do it.

Thank you very much.

MR. COAN: Thank you, Pamela.

All right. Next up we have Amanda Prettyman.

MS. PRETTYMAN: Good morning. My name is Amanda Prettyman. I'm in Bibb County.

And I want to make two points, then read Federalist 53. One point is 62 percent of voters not trusting our elections. You could argue that our government is engaged in voter suppression by not addressing our concerns.

Number 2, the encryption keys discovered from my county and others with the databases really suggests perhaps every county is this way and tells me that we're in a state of emergency. You have the complaint before you. I believe it's been submitted. And it shows that they are in plain text, unprotected, and gives access to all tools and information, all -- to manipulate, fabricate, produce, replace election results.

And so I think we're -- Georgia is in a state of emergency. Our code already provides a solution for that. As Field said, hand-marked emergency paper ballots scanned in our machines and then hand counted with proper chain of

custody.

And so now I'll go to Federalist 53. And that was written by James Madison. I'm just going to read a portion of it. February 1788: It is an inconvenience mingled with the advantages of our frequent elections even in single states where they are large and hold but one legislative session in a year that spurious elections cannot be investigated and annulled in time for the decision to have its due effect. If a return can be obtained no matter by what unlawful means, the irregular member who takes his seat of course is sure of holding it a sufficient time to answer his purposes.

(reading): Hence, a very pernicious encouragement is given to the use of unlawful means for obtaining irregular returns. Were elections for the federal legislature to be annual, this practice might become a very serious abuse, particularly in more distant states. Each house is, as it necessarily must be, the judge of the elections, qualifications, and returns of its members; and whatever improvements may be suggested by experience, for simplifying and accelerating the process in disputed cases, so

great a portion of a year would unavoidably elapse, before an illegitimate member could be dispossessed of his seat, that the prospect of such an event would be little check to unfair and illicit means of obtaining a seat. All these considerations taken together warrant us in affirming that biennial elections will be useful to the affairs of the public as we have seen that they will be safe to the liberty of the people.

And so as you can see, to our founders it was presumptive that election irregularities, be it error or fraud, would be investigated and acted upon quickly. And that has not happened here. So I urge you to -- to consider it as you would if you went to the emergency room with chest pain because this is one of the most fundamental rights and it deserves the seriousness and expediency that you would be given there.

Thank you.

MR. COAN: Thank you.

We appreciate every one of your comments, and -- and thank you for being here and participating.

And now I'm going to turn it back over to

the chairman. Thank you.

CASES RECOMMENDED TO BE DISMISSED

MR. FERVIER: That concludes our public comment section of the agenda. We'll move into investigative reports.

And the first section on investigative reports is cases recommended to be dismissed. We will vote on these en masse with the exception of those reports to be discussed by individual board members if they want to remove some of them.

Member Ghazal.

MS. GHAZAL: SEB case 2021-054[sic], tab number 4, please.

MR. FERVIER: Are there any other cases to be discussed?

MR. LINDSEY: Yes, Mr. Chairman. I would like to pull SEB2022-038, Gwinnett County case. That's number 5 on your tab.

MR. FERVIER: Any other cases that the board would like to discuss in the first section? We will pull SEB2021-058 and SEB2022-038 for further discussion.

The remaining cases recommended to be dismissed are -- let me go through these: SEB2021--048, Sumter County failure to open poll;

SEB2022-129, Muscogee County problems at the polling place; SEB2022-182, Long County absentee ballot issue; SEB2022-194, Fulton County Alpharetta branch library ABA; SEB2022-204, Forsyth County residency issue; SEB2022-253, Fulton County early closing at advance polling location; SEB2022-275, Fulton County improper campaign sign postings; SEB2022-368, Fulton County prohibited personnel practices by poll officials; SEB2023-002, Morgan County failure to open polls; SEB2023-010, Gwinnett County ineligible board member; SEB2023-047, Fulton County, city of Milton improper polling location changes; SEB2023-093, Fulton County, city of Roswell Johns Creek water treatment plant delayed poll opening.

All of those cases have been recommended for dismissal by the investigators. The board has had their briefing books for about a week now and has had an opportunity to look at those cases. Do we have a motion on those cases?

MR. LINDSEY: So moved, Mr. Chairman.

MR. FERVIER: And your motion is --

MR. LINDSEY: To dismiss.

MR. FERVIER: -- to dismiss the cases --

MR. LINDSEY: Yes.

MR. FERVIER: -- previously listed. Do we have a second?

MS. GHAZAL: Second.

MR. LINDSEY: We have a motion -- yes?

UNIDENTIFIED SPEAKER: (inaudible, off mic in gallery)

MR. LINDSEY: Mr. Chairman, since she's here, I would move -- I would move to amend my motion to hear separately 2023-10.

UNIDENTIFIED SPEAKER: I appreciate that.

MR. FERVIER: We have a motion by -- an intervening motion by board member Lindsey to remove SEB2023-010, which will be removed. The remaining ...

MR. LINDSEY: I would move that the remaining cases that you cited -- that you listed be dismissed, Mr. Chairman, that -- with that change that I --

MR. FERVIER: There is a motion to remove the remaining cases that have been listed. Do we have a second?

DR. JOHNSTON: Second.

MS. GHAZAL: We have a motion and a second. Any discussion? Hearing no discussion, all those

in favor of moving the cases previously listed, with the exception of the three, signify by saying aye.

THE BOARD MEMBERS: Aye.

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

The board will now hear from investigators on SEB2021-058, multi-county excess voting.

MR. BRUNSON: Following the November 2020 presidential general election, several states received complaints alleging cross-state double voter fraud. The Georgia Secretary of State initiated an investigation into voter fraud following this complaint.

The Georgia Secretary of State's Office initiated this investigation after 60 Georgia voters were identified by name and date of birth as voting in the Georgia and another state for the same November 2020 general election which is a potential violation of O.C.G.A. 21-2-572 that prohibits repeat voting in the same primary or election.

On February 8, 2021, we received a spreadsheet containing 60 names. According to the voter registration system, ElectioNet, also

known as ENet, 19 of the 60 people potentially voted in Georgia. The investigator inspected the documentation and noticed that 18 of the 19 alleged double voters had already been investigated under case number SEB2021-138.

One of the individuals, Nathaniel Brown, was not investigated. Further investigation into Mr. Brown's situation revealed that he voted absentee by mail for the Georgia 2020 general elections on September 25, 2020. Richmond County was able to locate the oath envelope for Brown. It is indicative that Brown did not vote. They could not locate it. So it's indicative that Brown did not vote and a clerical error was most likely made, giving this voter credit.

During the investigation Richmond County received vital records information on August 14, 2023, confirming that Brown is now deceased. The South Carolina Election Commission confirmed there was a match and that Brown voted early in person on October 28, 2020, in Lee County, South Carolina for the November 2020 general election.

The allegation that Georgia voters voted more than once in the same election was unsubstantiated. The spreadsheet initially

identified 60 alleged double voters in Georgia and another state by name and date of birth only.

Following the Georgia Secretary of State's data match requests using name, date of birth, and adding the Social Security number that number was reduced down to the 19th that I talked about earlier. And ultimately Mr. Brown was identified as having not been previously investigated. And based on that, this case was unsubstantiated.

MS. GHAZAL: Thank you. I just wanted to highlight a couple of points. So based on publicly identifiable information on public databases, there were 60 potential matches; is that correct?

MR. BRUNSON: Yes.

MS. GHAZAL: But then using data that's only available to government databases because these are unique identifiers and this -- this is nonpublic information, so two-thirds of the potential matches were eliminated; is that correct?

MR. BRUNSON: Yes, just about. Yes. From 60 down to --

MS. GHAZAL: I wanted to make that point, that the data that's available to the public is

really incomplete. And when two-thirds of those were false matches, we're looking at a very dangerous practice if are trying to use solely public databases to identify individuals. And that's why I wanted this case brought up. It's when the private, unique identifiers are matched, that is when we have a high level of confidence that we have matching voters, not using public databases.

Thank you. I have no further questions on this.

MR. FERVIER: I want to clarify. Eighteen of the nineteen have previously been disposed of; correct? The 18 of the 19 voters have previously been heard or disposed?

MR. BRUNSON: Yeah. They're in other cases. Some different cases and they have not been heard.

MR. FERVIER: They have not been heard.

MR. BRUNSON: Those are upcoming. Yes.

MR. FERVIER: Okay. Right.

MS. GHAZAL: So I would -- I would move to dismiss this complaint with the rest of them.

MR. FERVIER: Are there any other questions from --

DR. JOHNSTON: Yeah, I have a question for Michael, Mr. Chairman. A question for the investigator.

I see that the absentee by mail application was found, but the oath for Mr. Brown was not located. Did the investigator go further and look at the absentee voter list? Like the numbered voter list that goes -- that is provided with absentee voters?

(Microphone feedback)

MR. FERVIER: We have a problem here. Okay.

DR. JOHNSTON: So not finding an absentee ballot oath envelope is just not finding something. But was it confirmed that this voter's name was not on the absentee voter list?

MR. BRUNSON: I'd have to take a look at the ...

DR. JOHNSTON: And Mr. Chairman?

MR. FERVIER: Yes.

DR. JOHNSTON: I would also like to say that having the tools available in election offices that are much more detailed and accurate than what may be available to the public should be further encouragement that election offices will utilize that data -- utilize that data to

maintain accurate rolls.

And I -- I don't understand why challenges continue to be made with voters that have allegedly moved to other states and registered to vote in other states or actually voted in other states and our election offices are unable to corroborate the information. Thank you.

MR. BRUNSON: No, I don't see it.

MS. GHAZAL: Can I also just add a point of clarity. Mr. Brown passed away; correct?

MR. BRUNSON: Yes, he did.

MS. GHAZAL: Okay. He's --

MR. BRUNSON: After.

MS. GHAZAL: -- he cannot be a -- a respondent.

MR. FERVIER: Any other questions from the board?

DR. JOHNSTON: No further questions. I move that we dismiss.

MR. FERVIER: Do we have a motion on this case?

MS. GHAZAL: I renew my motion to dismiss.

MR. FERVIER: We have a motion --

DR. JOHNSTON: Second.

MR. FERVIER: -- to dismiss. And a second

to dismiss this case. Any discussion? Hearing no further discussion, all those in favor of dismissing case SEB 2021-058, multicounty excess voting, please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, so moved unanimously.

Next case is SEB2022-038, Gwinnett County ballot harvesting. Member Lindsey pulled that case.

MR. LINDSEY: Yeah. In particular I'd like to ask you about one particular individual who refused to cooperate. And that would've been Joyce Lynn Lofton. And let me ask you this -- is Miss Lofton here by chance?

Here's the reason that I want -- and I'll ask you to confirm with this, is that, you know, when -- when you -- the investigators approached Miss Lofton, she basically refused to cooperate and she hired an attorney who said that she would not cooperate; correct?

MS. KOTH: Yes.

MR. LINDSEY: And that the film did show that she dropped off three ballots. You checked to determine whether or not there were any other

residents -- residents living in her household who were registered to vote and there were none; correct?

MS. KOTH: At that time, that's true. But it doesn't go back to 2020. When it was checked it was 2022. So that information was there was no other registered voters in 2022.

MR. LINDSEY: Okay. My concern is that, you know, there may very well have been a very legitimate reason why Miss Lofton dropped off the ballots. She may been doing so for an elderly person or someone else that she had charge over, someone else living in the household. But her refusal to cooperate doesn't tell us one way or the other.

And I'm not prepared to dismiss a case because someone refuses to cooperate. And -- but, you know, she was not given a notice that we would be taking up her case for the possible adjudication as to a penalty.

So for that reason, Mr. Chairman, I would move as to Joyce Lynn Lofton that we continue this matter to our next hearing to give Miss Lofton an opportunity and her attorney -- since she's hired one, just give her a chance to use

him -- and -- and let's see what the facts are in that case whether or not some type of misconduct took place.

For that reason I would move to continue that particular matter as to Miss Lofton.

MR. FERVIER: We have a motion from member Lindsey to continue case SEB2022-038. Do we have a second?

MR. LINDSEY: As to Miss Lofton only.

MR. FERVIER: As to Miss Lofton only.

MR. LINDSEY: Yeah.

MR. FERVIER: Do we have a second?

MS. GHAZAL: Second.

MR. FERVIER: We have a motion and a second to continue SEB2022-038 as it pertains to Miss Lofton only. Is there any discussion?

DR. JOHNSTON: I would agree with the motion to continue and ask Miss Lofton to appear. But I also would like to make a motion to continue another of these cases.

MR. LINDSEY: Yeah. Like I said, I just wanted to start there and we can take up some -- any other ones too.

MR. FERVIER: We have a motion and a second to continue SEB2022-038. All those in favor

signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, so moved by a vote of three to zero.

The next case that was pulled was SEB2023-0 --

MR. LINDSEY: Mr. Chairman, I think Dr. Johnson wanted to address one other matter within the ...

DR. JOHNSTON: So I -- I am -- I am interested -- more interested in number 4 of this case, the video showing a -- a woman, a female dropping off multiple ballots. And the video -- a review of the video shows maybe 15 or 20 ballots and the person in the video appears to be an election worker.

MR. FERVIER: Are you referring to the same case?

DR. JOHNSTON: Same case. The -- in the investigative report, it says they could not identify the woman. You know, looking at the video, I -- minus the mask right here, she seems to be easily identifiable by somebody if she's an election worker, has worked in an election office.

So I think it would bear further investigation. There -- there is a -- there are two cases that are described just like this in Connecticut and New Jersey and where there is absentee ballot harvesting by election workers and deposited into drop boxes.

So I think it would bear further investigation to see if we could identify who this person is and establish that these were legitimate ballots that she was dropping off.

MR. FERVIER: Thank you. A portion of this -- this case will be continued to the August meeting at which time there will be plenty of time between now and then to further send questions to the investigative team.

MR. LINDSEY: I think that our investigator would like to comment.

MS. KOTH: I didn't know if you wanted to hear what the investigator did for this case. So ... like, that they -- what they tried to -- that they tried to find her. Do you want me to go through what they did? Okay.

So the investigator reached out to Gwinnett County Elections Director Zach Manifold. He was shown the photo of the female and he advised he

did not know who she was. They did confirm that the lanyard appeared to be a Gwinnett County election ID.

The director passed around the photo in his office, but the identity of the women was not determined. The investigator requested the list of Gwinnett County election workers for the 2020 election and they provided that spreadsheet.

The investigator conducted a driver's license check on 293 subjects to compare the driver's photo to the security footage. The investigator located a possible match. The female was interviewed in person but ruled out as she was much taller than the female in the video surveillance and she also advised that the photo was not her. And he didn't believe so when he interviewed her.

The investigator also learned of an incident where a Gwinnett County Sheriff's Office wanted poster was circulated on the Internet using the photo of this female. And the incident was reported by 11 Alive News. The poster displaying the Gwinnett County Sheriff's Office emblem was confirmed by a representative of the Gwinnett County Sheriff's Office to be false. But the

creator of the fake wanted poster was not investigated by the sheriff's office and not identified.

But the incident didn't uncover any leads leading to the identity of the respondent as well. And when they tried to do facial recognition software, because she's wearing a mask, DMV said that they needed the full face. So that was not an option for recognition software.

So that is why they weren't able to identify that individual. But all of that on the Internet didn't lead to her identity either.

MR. FERVIER: Thank you. This case has been continued to August. Let's move on and hear --

MR. LINDSEY: Mr. Chairman, I think we want to dismiss the others, except for those two. There were others that were listed. I think we would -- I think we wanted to dismiss the others but to simply continue those two -- thank you. To continue those two that were cited by me and Dr. Johnston, but to -- to dismiss the remainders.

MR. FERVIER: Do we have a motion?

DR. JOHNSTON: So moved.

MR. FERVIER: We have a motion and a second to dismiss the remaining respondents for SEB2022-038 and with the one respondent being continued to August. Any discussion? Hearing no further discussion, all those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Dr. Johnston?

DR. JOHNSTON: So this case will be continued?

MR. FERVIER: The case will be continued to August for the one respondent, yes.

MR. LINDSEY: The two.

DR. JOHNSTON: The two respondents.

MR. FERVIER: Two respondents, yes.

DR. JOHNSTON: Two respondents. Yes, aye.

MR. FERVIER: So moved. Now, we'll move on to the next case which is SEB2023-010, Gwinnett County ineligible board member.

MS. KOTH: The Secretary of State's Office opened this investigation in February of 2023 following a complaint from a Gwinnett County resident. The complaint was regarding board member Anthony Rodriguez. The complaints were regarding his attendance at board meetings,

voting history during Gwinnett County election board meetings, and his personal voting record, and publicly and openly campaigning for Stacey Abrams.

The complaint that had the purview of the Secretary of State's Office was that of the improper campaigning activity by a county board member, a potential violation of O.C.G.A. 21-20 -- 221-4(c).

The findings were the allegation that the complainant while being on the Gwinnett -- from the complainant that while being on the Gwinnett County Board of Elections and Registration publicly and openly campaigned for a particular candidate was unsubstantiated. The investigation revealed the respondent did not engage in any political activity on behalf of the candidate while conducting the duties of the Gwinnett County Board of Elections and Registration board member.

The respondent is a cofounder of the theater where he was observed expressing support for the particular candidate. While showing his support, the respondent was acting in the capacity of a private citizen, appearing to be exercising his

First Amendment rights. There's no evidence presented to show or prove the respondent engaged in any political activity on behalf of a candidate while in the performance of conducting board member duties.

MR. LINDSEY: If I may, Mr. Chairman, ask the complainant the question.

MR. FERVIER: Yes.

MR. LINDSEY: Just briefly. You heard the investigation. The investigation was that the board member didn't engage in political activity for a particular candidate while serving on the county election board but was -- but did support a candidate in that individual's private capacity outside of the boardroom. I just wanted to give you a chance -- do you have any evidence to contradict that?

UNIDENTIFIED SPEAKER: (off microphone) Evidence that turns up -- and I submitted quite a bit of evidence with photos. Some of the photos were on -- on his business site where she visited, but many of them were on his personal Instagram or Facebook page. (indiscernible).

The issue with this board member is that he is our nonpartisan member-at-large board member,

okay? He is meant to be impartial just like the chair up here. That is what we expect our board members to be. Two appointed from each party and one nonpartisan.

The issue that we have with this current board member -- the first case she's talking about a complaint I filed last year in 2023. I filed a new case this year, 2024, which has additional evidence, including his personal voting history for a dozen or more years, including this past presidential primary.

MR. FERVIER: Sure.

UNIDENTIFIED SPEAKER: He is highly partisan. He's not -- he's not -- not nonpartisan at all. He votes 100 percent. We have a ringer. That's not the heart and the intent of our county board of elections, okay? We don't get to voice our opinions (indiscernible) people just like behind this desk here, okay? You're all appointed. We the people do not elect any of you.

But what is our recourse? Where do we go when there is misjustice or maladministration? He was reappointed, a second appointment, clearly understanding his role on the Gwinnett County

Election Board. He is there to represent us as a nonparty. I would consider that false swearing. I would consider that breaching his oath of office that he took as he swore that he was going to represent Gwinnett County as a nonpartisan member-at-large and that has not happened.

Right now we have a three to two Gwinnett County board. As citizens in Gwinnett, that is not acceptable. That is not acceptable. We don't want anybody to weigh on either side.

What we want, what I ask is that you take a look at it, that there be some instruction. The letter I got back is that he didn't break the law, so no action will be taken. And he would be recommended for dismissal.

So what law -- my point of information is what law does he have to break to do that if you're not representing your oath of office and the heart of the position that you took? He clearly understands at this point.

MR. FERVIER: Yeah. I --

UNIDENTIFIED SPEAKER: It's bold. It's in your face. We see it every month. And what are we supposed to do? I submit it you. My understanding is you have authority over these

county boards. Many of us fight the same thing with our county boards. You know, they're rogue. They're -- every two years they just reappoint themselves. Many of them have made pseudocareers out of this. Stayed on boards for dozens of years. Sorry.

MR. FERVIER: Thank you for your comments.

UNIDENTIFIED SPEAKER: (indiscernible)

MR. LINDSEY: Yeah, I understand. I -- the most frustrating thing sometimes is to say that our -- our jurisdiction is limited, but it is. But however I did hear you -- and -- hold on, hold on. I do hear you and I do agree with you.

UNIDENTIFIED SPEAKER: (indiscernible) --

MR. LINDSEY: That's -- let me -- let me finish.

UNIDENTIFIED SPEAKER: (indiscernible)

MR. LINDSEY: Let me finish. When you're winning, be quiet.

UNIDENTIFIED SPEAKER: (indiscernible)

MR. LINDSEY: And I'm -- and I'm -- I hope you understand I'm joking.

I would, Mr. Chairman -- I do move to dismiss but with a letter of instruction to the board chair that as a nonpartisan he should

refrain from partisan activities in order to instill greater confidence in the people of Gwinnett County. That's my motion.

MR. FERVIER: Let me understand. Your motion is to not dismiss it, to offer a --

MR. LINDSEY: Offer.

MR. FERVIER: -- letter of instruction?

MR. LINDSEY: Yeah, offer a letter of instruction.

MR. FERVIER: So we have a motion from member Lindsey to offer a letter of instruction to this individual for SEB2023-010. Do we have a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion and a second. Any discussion? Hearing no discussion, all those in favor of offering a letter of instruction on SEB2023-010, Gwinnett County ineligible board member, please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition?

MS. GHAZAL: Nay.

MR. FERVIER: The vote is two for and one against. The motion carries.

UNIDENTIFIED SPEAKER: Thanks very much.

And I appreciate you letting me be heard. And I appreciate (indiscernible).

MR. FERVIER: Thank you. That concludes our portion concerning cases recommended to be dismissed. I think that it's an appropriate time to take a short lunch break. No? It's not time?

(The chair conferred with staff.)

CASES RECOMMENDED FOR LETTERS OF INSTRUCTION

MR. FERVIER: Okay. We'll move into violation cases recommended for letters of instruction for -- the first case on the agenda is SEB2021-156, Clayton County failure to record assistance information.

I do want to say that we're going to go slightly out of order. And the last case on the agenda, SEB2023-025, Fulton County tabulator results will be heard immediately after lunch. So ...

MR. LINDSEY: Mr. Chairman?

MR. FERVIER: Yes.

MR. LINDSEY: A point of inquiry. Should we treat this -- and this is truly an open question, should we treat this similar to how we treat a dismissal where there's no -- there's no contention or there's no disagreement within the

board as to how to handle it or necessity for a greater discussion, that can we simply deal with these en masse with a letter of instruction rather than going one by one?

That's a question for the board. I mean, I'm sure that there may be one or two that folks want to pull to have them heard separately but most of these would appear to be things that we could deal with en masse.

MR. FERVIER: The -- the issue is if there are respondents here that may want to respond to these --

MR. LINDSEY: Well, okay, if there is some respondent here that wants to hear or be heard, then we do them individually. But if there's not someone who wants to be heard, those perhaps we could dispose of en masse.

MR. FERVIER: Are there respondents here -- is there a respondent here for SEB2021-156?

MR. REED: Mr. Chair, Charles Reed for Clayton County.

MR. FERVIER: We're -- we don't -- I just want to go through the list right now and see which ones have respondents and then we can take care of the rest of them.

Okay. So that one will be heard.

Is there a respondent here for SEB2022-042? That is Bacon County.

Is there a respondent here for SEB2022-043, Fulton County election night reporting?

MS. BRUMBAUGH: (off microphone) Yes. Ann Brumbaugh, Fulton County. And I'll save you some time. I'm here for '22-356 and (indiscernible) but not 370.

MR. LINDSEY: For just 356?

MS. BRUMBAUGH: (inaudible)

MR. FERVIER: So you're 356, 370, and 043?

MS. BRUMBAUGH: Not 370.

MR. FERVIER: Not 370.

MS. BRUMBAUGH: Fulton County's not listed (indiscernible). It happened in Fulton County. It was listed on the -- on the agenda (indiscernible).

MR. LINDSEY: Understood.

MR. FERVIER: Right. Is there a respondent here for SEB2022-090, Bibb County?

MR. NOLAND: William Noland for the Bibb County cases but I don't intend to say anything. We'll be happy to be included in the en masse.

MR. FERVIER: Okay. That's outstanding.

DR. JOHNSTON: Mr. Chair?

MR. FERVIER: Yes.

DR. JOHNSTON: Mr. Chair, thank you. Since these are all cases of violation, I think they all deserve to be heard. If we're -- whatever we do, we dismiss, that's great for the respondent. But if we're suggesting that violations have been found, I think it's -- it's the proper thing to do to hear these cases. Some may be referred to the Attorney General. Some may be issued letters of instruction or reprimand and some may be dismissed. But I would like to hear all of them.

MR. LINDSEY: In which case, Mr. Chairman, if a member thinks we should hear them all, we should hear them all.

MR. FERVIER: Move to hear them all. Let's start with SEB2021-156, Clayton County failure to report assistance information.

MS. KOTH: Investigations received a complaint that alleged that the translators who were hired by the city of Morrow to assist voters needing translation services were not properly filling out the voter assistance portion of the voters.

The investigator interviewed the poll

manager, Gloria Collins, who advised that she was under the impression that since the translators were hired by the city of Morrow for translation services that they were not required to fill out the voter assistance forms. She advised that she was corrected in this thinking and would make sure they fill out the forms.

The investigator interviewed the translators. Frank Soto advised that he has assisted one voter and thought since he was -- only helped with the initial translation at the polling location and did not help the voter cast a ballot, so he believed that he did not need to fill out the form. Trang Tran advised that she had assisted approximately four to five people per day and did not fill out the forms.

Potential violations: O.C.G.A. 21-2-590 pertaining to poll officer permitting unregistered or unqualified persons to vote, refusing to permit registered and qualified persons to vote, and unlawful rendering of assistance.

MR. FERVIER: Is there a respondent for SEB2021-156?

UNIDENTIFIED SPEAKER: (off microphone)

Would you like for me to come here or --

MR. FERVIER: Please come to the podium. Oh, well, I guess you can go right there.

UNIDENTIFIED SPEAKER: Hit your button. Now, hit the button. There's only two in there.

UNIDENTIFIED SPEAKER: Should be on there. On the -- on the table.

UNIDENTIFIED SPEAKER: On the table.

UNIDENTIFIED SPEAKER: There it goes.

MR. REED: All right. You can -- okay. Good afternoon now, Mr. Chair. Charles Reed for Clayton County and I have here elections director Shauna Dozier. Her registration manager is Scott Brown and also Ms. Collins was the poll manager here.

For this matter we are okay with a letter of instruction, although we do believe that there's some question as -- actually it should actually be dismissed because it's not clear that there was actually a violation of the law.

First on October 21, 2021, Director Dozier reached out to the Secretary of State's investigator Francis Watson via e-mail to inquire about a sign because she had received some comments or questions from Morrow people talking

about the role of the translator at the voting precinct.

And she had -- so after some back and forth, Investigator Watson asked whether translators were reading the ballots of those who do not speak or read English. And, if so, she asked for confirmation whether the translators and poll workers were completing the assistance portion for each person that provided translation service for the ballot.

Director Dozier stated -- this is all in the e-mail -- that not only had staff been trained to have anyone who assisted to sign the application, she had a staff member physically go out that day to verify that that was being done.

Mr. Scott Brown, he went to the polling location and confirmed that there was no translator that had accompanied anybody to the voting booth. He observed the translators sitting alongside the wall and not near any machine and that there may have been some translators who assisted voters in the instruction portion prior to going to the -- to the machine but no voter -- no translator actually assisted their voter in making their

vote.

And at that time, because the -- the -- it was physical forms. They would've had to sign the form, signing the oath of assistance. And Gloria, who is a long time poll manager, she is well-known for, as we say, running a tight ship. She does not let anybody just roam around. She had all of the translators sitting alongside the wall.

So we do not believe that there was any issue with a translator physically walking up next to or assisting someone and actually casting their vote. And if you look at the language of 21-2-409, subsection (a) says: No elector shall receive any assistance in voting at any primary or election unless she is -- he or she is unable to read the English language.

Subsection (b) specifically also says: Any elector who is entitled to read -- I'm sorry, entitled to receive assistance in voting under this code section shall be permitted by the managers to select any person of the elector's choice except such elector's employer or agent of that employer or officer or agent of such elector's union to enter the voting compartment

or booth.

So there's no question that the -- that none of the translators entered the compartment or booth to assist the voters and therefore it's reasonable to -- to believe that there was no requirement for them to sign the assistance of -- the oath of assistance simply by allowing them to read the instructions or help translate the instructions on giving their license or anything along those lines.

But in an abundance of caution, what we have done since 2021 is that we have trained the poll managers that even if there is someone who is assisting in helping to translate the instructions, that they are also to sign the oath of assistance. And so while we requested it be dismissed in -- based on that, we are okay with receiving a letter of instruction if that's the will of the board.

And I have the interested parties here to answer any questions of any board members. Thank you.

DR. JOHNSTON: Thank you, Mr. Reed. I have one question. Did the voters need assistance in reading the ballot actually?

MR. REED: In actually reading the ballot? That's -- not -- not to --

DR. JOHNSTON: The candidates on the ballot?

MR. REED: Not to my knowledge but the only issue that was -- that had come to the -- to the county's question was whether they -- whether the translators had actually accompanied the voters to the booth. And we had no -- we went there. The poll manager said that that had not happened and there was only the initial conversations with the -- outside of the polling booth that the translators had assisted a handful of people.

DR. JOHNSTON: Thank you.

MR. FERVIER: Yes, member Ghazal.

MS. GHAZAL: I think it's important to -- to highlight the fact that both state and federal law require that the state allow voters to have this assistance if they need it.

And I would also -- so I will move to issue a letter of instruction in this case. I would also ask that the Secretary of State's Office and the general counsel's office provide formal guidance to all of the counties regarding when the signature of a translator or assistant is -- is needed, at what point in the process so that

every county is able to understand exactly what this law requires and are able to train your poll managers and poll workers accordingly within -- early in this -- in this stage. So that was a two-part -- one motion and one request.

MR. FERVIER: Your request will be forwarded.

MS. GHAZAL: Yes.

MR. FERVIER: Your motion is to offer a letter of instruction.

MS. GHAZAL: Yes.

MR. FERVIER: On SEB2021-156, Clayton County failure to record assistance information. Do we have a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion and a second. Any discussion? Hearing no discussion, all those in favor of offering a letter of instruction to Clayton County on SEB2021-156 signify by saying aye.

THE BOARD MEMBERS: Aye.

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

The next case on the agenda is SEB2022-042, Bacon County intentional interference with

election duties.

Is there a respondent here for Bacon County?

You may proceed.

MS. KOTH: It was reported that Tony Kirkland created a disturbance at a polling location during the advance voting period. Mr. Kirkland was displeased with the ballots and how he could not just vote for anyone. There is evidence to suggest that Tony Kirkland disrupted the flow of the election when he became verbally upset, raising his voice inside the polling location.

This was witnessed by several poll staff members who claimed Mr. Kirkland's actions disrupted voters who were actively voting. It was reported that his -- he continued to be disruptive even after the poll staff explained why he was unable to vote for a particular candidate.

This occurred during the advance voting period of May 24, 2022, general primary election. There's evidence to suggest Tony Kirkland violated O.C.G.A. 21-2-569, interfering with electors.

MR. FERVIER: Are there any questions from

the board?

DR. JOHNSTON: Mr. Chairman, I have a question. Were the voters unable to vote because of Mr. Kirkland?

MS. KOTH: No. It didn't say. It just says they were actively voting at the time.

DR. JOHNSTON: Okay. And is it -- is there a definition of disruptive that is employed in the investigation.

MS. KOTH: What's the question?

DR. JOHNSTON: I guess the question is is -- disruptive is a descriptive term and does that mean disruptive -- verbal disruption or loud speaking or actual physical act or physical behavior?

MS. KOTH: In this report they advise that he was loud and very boisterous, but he was disruptive to the point that the voters were inquiring what was happening.

DR. JOHNSTON: Mr. Chairman, I think even verbal disruption is -- is not following decorum in a voting place. It's -- you know, we should be respectful and go -- and go into the voting facility, the polling place, and make our vote and -- and leave.

If there's a problem as we -- as -- as our code instructs, the superintendent is to be notified if there are issues and not to take out some frustration and anger on poll managers and poll clerks. So decorum is important.

And elections I know are sometimes close and contested, but I would -- I would move that we issued a letter of instruction for Mr. Kirkland.

MR. FERVIER: We have a motion to issue a letter of instruction on SEB2022-042. Do we have a second?

MR. LINDSEY: Second.

MR. FERVIER: We have a motion and a second. Any discussion? Hearing no discussion, all those in favor of issuing a letter of instruction on SEB2022-042 signify by saying aye.

THE BOARD MEMBERS: Aye.

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

Let's try one more before we have a break. Let's SEB2022-043, Fulton County election night reporting, May 3, 2022.

MR. BRUNSON: Okay. 2022-043, Fulton County election night reporting. The Secretary of State's Office investigated Fulton County after

it did not submit the election results to the Secretary of State's Office by the deadline and by the method dictated by the Secretary of State's election office.

The results were due for the May 3, 2022, House District 45 special election runoff by 10 p.m. The results were not sent until May 5, 2022, at 2:49 p.m. Nadine Williams, the director for Fulton County elections, was asked why the results did not get submitted and she indicated that the spreadsheet was not recognized and forwarded.

Later, during the investigation, she forwarded an e-mail to the investigator from one of her staff members, Robert Gilstrap, that showed the results being sent on May 3rd at 8:21 p.m. which is before the required deadline. However, Gilstrap sent the results to the deputy director of the SOS elections division and the county liaison instead of the designated e-mail: electiondata@SOS.ga.gov.

So based on the evidence, this is a possible violation of SEB rule 183-1-12(c)(1)(c) which states in part that data shall be transmitted to the Secretary of State in a manner determined by

the Secretary of State.

MR. FERVIER: So there is proof that it was sent. It was just sent to the wrong place.

MR. BRUNSON: Yes.

MR. FERVIER: Is there a respondent here on this case?

MS. BRUMBAUGH: (off microphone, inaudible). Yes. Good afternoon. I'm Ann Brumbaugh. I'm here on behalf of Fulton County. I brought (inaudible) with me: Cathy Woolard who's the chair, Nadine Williams who's the director, and (inaudible). I don't think the facts are in dispute here. Yes, Secretary of State wanted it in a certain form to a certain place. Fulton County sent it in a different form to a different place. (inaudible)

MR. FERVIER: Is there any other questions from the board?

DR. JOHNSTON: How has this been corrected for future elections?

MS. BRUMBAUGH: (off microphone) To my knowledge it has been corrected. (inaudible) since. This was in 2022, May 2022. So we had the June 2022, the November 2022. We had the December 2022. We had the November 2023 and we

had the March 2024.

DR. JOHNSTON: Thank you.

MR. FERVIER: Any further questions from the board? Do we have a motion on this case?

MR. LINDSEY: So moved, Mr. Chairman.

MR. FERVIER: What is the motion?

MR. LINDSEY: Move for a letter of instruction.

MR. FERVIER: I have a motion from member Lindsey for a letter of instruction. Is there a second?

MS. GHAZAL: Second.

DR. JOHNSTON: Second.

MR. FERVIER: We have a second to issue -- a motion was made to offer a letter of instruction on SEB2022-043. All those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? So moved by a unanimous vote.

Is the board's pleasure to continue or take a break?

(Board members conferring off microphone.)

MR. FERVIER: All right. We'll now hear SEB2022-090, Bibb County early voting results

printed.

MS. KOTH: Allegation 1: The poll watchers allege that they witnessed the advance voting tabulation results being printed on three scanners at the Bibb County Board of Election advance voting location. The results were allegedly printed by the chief registrar and other poll workers who followed her directions.

Poll watchers said this occurred while they were getting the final advance voting number on May 20, 2022.

Allegation 2: A poll watcher alleged proper protocol was not followed when the poll manager printed advance voting tabulation results on two scanners located at the Elaine Lucas Center advance voting location. This allegedly occurred at the close of polls on May 20, 2022.

The investigation revealed that the tabulation result sheets were printed early at both the Bibb County Board of Election advance voting location and the Elaine Lucas Center advance voting location. This was witnessed by poll watchers in each of the locations who apprised the office of the Secretary of State as to what had occurred.

The individuals responsible for the tabulation results being printed early at the Bibb County Board of Election advance voting locations were identified as the chief registrar. The individual responsible for the tabulation results being printed early at the Elaine Lucas Center was identified as a poll manager. Both admitted to printing the tabulation results early and have since been educated on the proper procedure.

The investigator spoke with Bibb County elections supervisor who advised that the early tabulation was a mental lapse on the part of the poll managers and had not been done in prior nor subsequent elections. The election supervisor took precautions and secured the bags containing the tabulation result tapes in a lock drawer in his office where they remained until after the close of polls on election night.

The potential violations are for the Bibb County Board of Elections and Registration; Veronica Seals, former chief registrar; and Barbara White, poll manager.

There's evidence to suggest that Bibb County Board of Elections and Registration and Veronica

Seals violated SEB rule 183-1-14-.14(5)(b), early absentee ballot processing. And there's evidence to suggest that Bibb County Board of Elections and Registration Barbara White violated the same rule.

MR. FERVIER: Are there any questions from the board?

Is there a respondent here for this case?

MR. NOLAND: (off microphone) I stated earlier (inaudible). William Noland (inaudible).

MR. FERVIER: Thank you.

Are there any questions from the board?

MS. GHAZAL: I have a -- I have a -- just a point of clarification and I don't know whether you're better positioned or -- or Investigator Koth. Just to clarify that once the tabulator tapes were printed, they were secured properly?

MS. KOTH: Yes.

MS. GHAZAL: From that night on until -- until --

MS. KOTH: Yes.

MS. GHAZAL: -- election night? Thank you.

I -- I would -- I would move at the proper time to issue a letter of instruction.

UNIDENTIFIED SPEAKER: (off microphone,

inaudible) I was a watcher. My name is (inaudible). (inaudible) give some more information on that.

MR. COAN: Push your button, please.

UNIDENTIFIED SPEAKER: (off microphone) I was one of the watchers, one of the two watchers that was there at the board of elections that night.

MR. COAN: Push your button. Button.

UNIDENTIFIED SPEAKER: (microphone on) And, yes, I'd like to speak to that. I witnessed it. And when I was there, the manager told me that this is the way it had always been done. So I did an open records request of the 2020 poll tapes to see what the date was on those.

They had not saved the early poll tapes. They were not in the proper box for open records requests and no Bibb County resident has ever been able to see those early poll tapes after 2020. And I asked the clerk if we could get them from the superior court. They would not release them.

So anyway going back to 2022, we had to get our board members involved to make sure they were properly sealed. And then this has since -- I

haven't submitted a complaint but this has since occurred again in this presidential preference primary at Theron Ussery. We have three early voting locations, two satellites, and one being the central. So just it seems that we're struggling with following proper protocols.

And this time also the watcher who was there at Theron Ussery reported it to me. She had been the one that also witnessed this in 2022. So she knew what needed to happen with these being properly sealed. And her supervisor did not initially tell the person to seal them. We had to get our board member involved again to get them properly sealed so that the early results couldn't be leaked.

MR. FERVIER: Thank you.

UNIDENTIFIED SPEAKER: (inaudible)

MR. FERVIER: Any further comments from the respondent?

MR. NOLAND: No, none here.

MR. FERVIER: Thank you. Any questions from the board?

DR. JOHNSTON: Yes, a quick -- a question. I'm not sure if the Secretary of State's election office has a step-by-step guideline for all

election offices when there's an inadvertent closing at the polls because that's -- that's inadvertently tabulating results and that should not happen in any county ever.

And it happens every election. And it's a Dominion problem because it's very easy to -- rather then shutdown the tabulator, to close the polls. And if it's not an experienced poll manager, it -- apparently it happens frequently enough.

So I would -- I would re -- kindly request the Secretary of State's election office provide a certified letter to every county defining proper procedure for instructing poll managers what to do as far as shut down versus closing and a step-by-step guide for inadvertent closing of the polls resulting in tabulation tapes, including tape storage, memory card management, notification to the superintendent, and -- and make a record of that action taken.

MR. FERVIER: If you'll supply that recommendation to Alexandra, she'll forward that to the Secretary of State for you.

DR. JOHNSTON: I will do that.

MR. FERVIER: Thank you. Any further

questions?

MS. GHAZAL: Do we have your assurance that Bibb County will do remedial training for your early voting managers to ensure that this is not a recurrent event throughout the rest of the cycle?

MR. NOLAND: Certainly as the attorney for the board, I can recommend that to the board members and the staff. And practically speaking --

MR. LINDSEY: And if I may, first time you get a letter of instruction. Second time it goes to the attorney general. Okay?

MR. NOLAND: Understood. Thank you.

MR. FERVIER: Any further questions from the board? Do we have a motion?

MS. GHAZAL: I move that we issue a letter of instruction to the county.

MR. FERVIER: We have a motion to issue a letter of instruction to Bibb County. Do we have a second?

MR. LINDSEY: Second.

MR. FERVIER: We have a motion and a second to issue a letter of instruction to Bibb County on case SEB2022-090. Any discussion? Hearing no

discussion, all those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

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

The chair at this point would entertain a motion to recess for 45 minutes for a lunch break.

MS. GHAZAL: So moved.

DR. JOHNSTON: Mr. Chairman, I move that we recess 45 minutes for a lunch break.

MR. FERVIER: We have a motion and a second. All those in favor?

THE BOARD MEMBERS: Aye.

MR. LINDSEY: Could the young lady who raised the complaint about a Gwinnett County board member come -- come up? Yeah. Could you come up?

(Recess)

MR. FERVIER: We'll call back to order the meeting of the State Election Board. And as promised, we're going to start with a -- out of order with SEB2023-025, Fulton County tabulator results 2020 general election.

Do we have a respondent here for that case?

MS. BRUMBAUGH: Yes.

MR. FERVIER: Thank you.

Would the investigator please -- we'll recognize Charlene McGowan with the Secretary of State's Office.

MS. MCGOWAN: Thank you, Mr. Chairman. I'm going to assist Investigator Brunson in the presentation of this case. It's -- as you know, this case has presented -- or generated a great deal of speculation online, and there's been a lot of chatter about it. So I just want to start out the presentation of this case by giving the board some big picture context of what happened here.

So the complainants in this case claim that there is missing documentation for about 42,000 votes for the recount of the presidential contest in the 2020 general election. This is simply not true and it's not corroborated by the findings of this investigation.

We know there are not missing votes because we have the paper ballots that document those votes for this election. The paper is the record of the vote. It is the most important document and it is what is used to tabulate the vote and

to tabulate the results. So as long as we have that paper ballot, we have the paper trail that accurately records the voter's choices.

Now, we have all of the paper ballots for Fulton County for the 2020 election. And we know that because we have counted those paper ballots three times. They were counted in the original tabulation, they were counted by hand in the risk-limiting audit, and then they were counted again during the machine recount which is what is at issue in this case.

And all three counts confirmed the results of the presidential contest in 2020. So you will hear a great deal during this presentation about documents such as ballot images, batches loaded reports, and tabulator tapes. And all of those documentation, they're all very important. And we expect that the counties will keep those, maintain those, and make sure that they are complete.

But it's important to note that they play no role in the actual tabulation of results in an election. Again, those results are determined by the paper ballots which we have for 2020.

And the conclusion of this investigation

which we will get into the details of in a minute is that Fulton County used improper procedures during the recount of the presidential contest in 2020.

The investigation also shows that there are some duplicate ballot images in the ballot images that Fulton County provided. And this suggests that some ballots may have been scanned more than once. But what cannot be decided conclusively or confirmed conclusively is whether or not those duplicative ballot images were included in the count. So we don't know for certain whether or not those were in the tabulator results. And we will get into why that is during the case presentation.

I also think it's important to note that what happened during the recount was documented in real time. So we know what happened back in 2020. And the results of this investigation don't change any of the things that we already knew back then. It simply confirmed what everyone already knew. And the reason we already knew that is because there's contemporaneous documentation of what happened back in 2020.

This very board appointed an independent

monitor to monitor Fulton County throughout the 2020 election including during the recount. And the monitor's report notes what happened during the recount and we have that as part of this investigative file.

The Secretary of State's Office was aware of what happened at the time. And the secretary's office worked with Fulton County to make sure that they got to the -- the final and correct results of the recount. And what happened is also recorded in the board meetings -- or the board minutes of Fulton County's board of elections meetings that they had to certify the results of the recount.

So we know what happened at the time. The investigation has confirmed what we already knew, and there's nothing new that we have learned as a result of this investigation. And most importantly nothing about this case changes the results of the 2020 election. Those results are accurate. They were accurate at the time, in 2020, they are still accurate now, and nothing about this investigation changes that.

And I will turn it over to the investigator now to present the details.

MR. BRUNSON: Okay. The Georgia Secretary of State opened this investigation after the State Election Board referred this complaint filed by complainants Kevin Moncla and Joseph Rossi alleging Fulton County did not properly perform a recount of the presidential contest in the 2020 general election, quote/unquote, called the recount.

In this complaint dated July 8, 2022, the complainants allege, number 1, they identified irregularities in the recount, namely 17,852 votes of unknown providence. Number 2, there were 3,125 duplicate ballot images contained in the ballot images from the recount produced by Fulton County. Number 3, the original tabulation includes results for ten advance voting tabulators for which Fulton County does not have the tabulator tapes. And, number 4, that an individual by the name of Ryan Macias had communication with former Fulton County elections director Richard Barron about the alleged discrepancy with the election night and recount results but was not a Fulton County employee or contractor.

Complainants allege that collectively there

appeared to be no paper documentation of ballots for nearly 42,000 votes, a potential violation of recount procedures in O.C.G.A. 21-2-495 and SEB rule 183-1-15-.03(1).

So as a result of background information in the 2020 general election, the original certified results from Fulton County included 528,777 total ballots cast. There was a reported total of 524,659 votes cast in the contest for president of the United States, including 137,240 or 26.16 percent votes for then-incumbent president Donald Trump and 381,144 or 72.65 percent votes for Joseph Biden and 6,275 or 1.2 percent of the votes for Jo Jorgensen.

Following a recount of the presidential contest requested by then-president Donald Trump, Fulton County recertified the results on December 7, 2020. The recertified results reported 527,925 total ballots cast, a difference of 00.16 percent, and 523,779 total votes cast in the presidential contest, a difference of .16 percent including a 137,247 votes for then-incumbent president Donald Trump, a net gain of seven votes; 380,212 or 72.59 percent votes for Joseph Biden, a net loss of 932 votes and

6,320 votes for Jo Jorgensen for a net gain of 45 votes.

In preparation for the 2020 general election and pursuant to an October 2020 consent order, the State Election Board contracted with Seven Hills Strategies to serve as an independent monitor for the 2020 general election. One -- one of Seven Hills Strategies' responsibilities was to observe tabulation on election day and any postelection audit or recount.

On January 12, 2021, following the general election and subsequent runoff elections, Seven Hills Strategies prepared and submitted a postelection executive summary which is Exhibit Number 3 in the investigation. The summary indicated the monitor observed every aspect of the respondent's election processes and at no time was dishonesty, fraud, intentional malfeasance observed.

Under the topical heading, quote, The Recount, the executive summary noted several issues that included poor recordkeeping which led to other procedural problems for Fulton County throughout the recount process, namely Fulton County failed to properly follow protocols for

backing up and uploading data to servers resulting in errors. And Fulton County inadvertently named two scanners with the same name causing delays in the completion of the recount.

In August 2021, pursuant to a request from the members of the Georgia General Assembly, the SEB appointed a performance review board to examine issues with Fulton County's election process.

On January 13, 2022, the PRB issued a report of its findings which is Exhibit Number 4 in the complaint. On page 9 of the report, under the topical heading, Double Scanning of Ballots, the PRB noted one of the allegations leading to the General Assembly's August 2021 request for this review was that ballots were being double-scanned.

The PRB further referenced this report in part and a contributing factor to the possible double-scanning of ballots likely included poor batch management and storage practices, quote, also a contributing factor in errors in the hand-count audit and the recount.

The Seven Hills Strategies and the PRB

provided their findings to the SEB in 2021 and 2022 respectively for review. The SEB voted not to pursue further legal actions against the respondent.

In July 2022, complainants Joseph Rossi and Kevin Moncla filed a complaint with the State Election Board alleging several anomalies that I discussed in the introduction.

So now we'll get into the investigative summary. So our attorney already talked about some of the background. So we'll get into complaint number 1. The complainants allege they observed 3,125 duplicates in the ballot images for the recount produced by Fulton County. The SOS investigations division reviewed the documentation submitted with the complainant and subsequently sent three investigators to the Fulton County elections office to conduct an independent review of the batches of ballot images identified by the complainants.

The SOS investigators confirmed, as a result of this review, that the batches of ballot images matched the description provided by complainants and that there were sequence of ballot images that appeared to repeat but in a different

sequential order in the second batch.

While at Fulton County, SOS investigators observed a total of 3,182 ballot images meeting this description. Of the 3,182 ballot images, the votes in the presidential contest included 1401 votes for Donald Trump, 1713 votes for Joseph Biden, 52 for Jo Jorgensen, and 16 ballots on which the presidential contest was left blank. The respondent subsequently provided the SOS with approximately five thousand -- 518,960 ballot images in response to a subpoena.

The SOS investigations division conducted an in-house review of the same identified batches of ballot images to further determine how many alleged repeated ballot images were hand marked and how many were BMD-printed ballots or machine ballots. The results of that analysis came close to the results the complainant reported in the initial complaint. However, in the complaint the complainants listed two batches of ballot images -- images in tabulator 5162, batch 001, with 20 ballot images and batch 002 with 97 ballot images that were reportedly repeated images. Both batches combined totaled 117 ballot images.

Following a comparison of the images identified in tabulator 5162, only 20 of the a hundred and seventeen were identified as repeated images, thereby resulting in the final total of 3,075 repeated ballot images of which 1806 were images of BMD ballots and 1269 were images of hand-marked paper ballots.

The hand-marked paper ballot images appeared to be repeated because of unique identifying marks. The BMD printed ballots contained the same selections, but because there were no distinct markings on these ballots -- ballot images, investigators could not definitively identify them as duplicate or repeated ballots.

SOS supervisor, Investigator Gilbert Humes and Investigator Lance Patterson subsequently met with and interviewed Richard Barron who's the former director of elections for Fulton County. They asked him about his recollection of the recount process and his communication with the Secretary of State's Office regarding the delay in completing the recount. Barron indicated during that interview that he could not recall specifics of what occurred.

He stated that Dwight Brower was number 2,

second-in-command, and that -- and as the acting elections director during the recount, he placed warehouse manager Nadine Williams in charge of the recount.

Investigator supervisor Hume subsequently spoke with Nadine Williams who's the current elections director and inquired about the ballot images identified in the complaint. Williams confirmed she managed the recount. However, Barron was regularly kept informed of everything and all the processes that were established for the recount were established by the executive leadership team, and ultimately he made the executive decisions on how things were to operate and proceed.

Director Williams told investigators because the same groups of sequentially ordered ballot images were found in two separate batches but in a different sequential order in the second batch, it was most likely the result of poor batch management during the recount. This was an issue that was brought to light in 2021 and changes have since been made by Respondent to the ballot scanning process.

During the recount Respondent had one person

assigned per scanner and that person was responsible for scanning the batches and after scanning each batch, placing the scanned batches in a box marked "completed batches."

According to Williams, when she became elections director, she assigned two persons to a scanner to scan batches. This method allowed one person to focus on their prescanning responsibilities which was to make sure each batch was properly named and required scanning. And the second person was to focus on their postscanning responsibilities which was to assure scanned batches were scanned properly, labeled correctly, and stored in its correct location to avoid double-scanning, misplacing batches, or missing a batch that required scanning.

Williams further reported the implementation of this process was successful as the 2022 general election process experienced far fewer problems than in 2020.

Director Williams further reported employees' resignations and/or not reporting to work due to the COVID-19 pandemic resulted in a decrease in available staff in 2020.

The SEB-appointed monitor's executive

summary described the recount process by the respondent as follows: Quote, generally poor recordkeeping led to a multitude of procedural problems throughout the recount process. For example, the monitor observed that Fulton County leaders were sending out individual ballot batches instead of full boxes. And with this process, it would not be difficult for a batch to be forgotten or fall to the wayside as it changed hands.

When this practice was discussed with director Williams, she acknowledged such practices as those identified by the monitor could have potentially led to ballot images being uploaded twice during the recount but could not state for certain whether that was the cause of the potential duplicative ballot images.

Respondent reported that since 2020, they have implemented processes to make sure that after full batches of ballots are scanned, they are immediately secured in an area designated for already scanned batches.

So that's complaint number 1 as far as the -- the investigation.

Complaint number 2. The complainants allege

that in reporting results to the Secretary of State for the recount, respondent initially submitted vote totals of 511,543 which is lower than that of the original count from election night which was 528,777.

Complainants further allege that approximately 12 hours after reporting the recount vote of 511,543, the respondent's reported a recertified vote count total for the recount of 527,925, an alleged increase in votes counted of 16,382.

It is important to note throughout the complaint, the complainants erroneously conflate the number of total ballots cast and the total votes counted in the presidential election. The distinction between the two is important because there were nearly 4,000 ballots cast in Fulton County that left the presidential contest blank. So the number of total ballots cast would be greater than the votes cast in the presidential contest.

According to the complainants, they allege the respondents submitted election night vote count totals of 528,777, which is inaccurate because that number is the total ballots cast,

not the total votes counted in the presidential contest.

According to the original certified results, the correct number of total ballots cast in Fulton County for the 2020 general election presidential contest with 528,777 and the total votes counted was 524,659. And that's part of Exhibit Number 5. Approximately 4,118 ballots did not record a vote in the presidential contest either because the voter left it blank or the ballot contained an overvote.

In support of complaint 2, the complainants relied on two batches loaded reports they received from Fulton County in response to an open records request. Complainants alleged that the first batches loaded report, BLR-1, indicated 511,543 votes were tabulated and published. And the second batches loaded report indicated 527,741 votes were tabulated and published. Complainants questioned how the respondent was able to, quote/unquote, find more than 16,000 votes between BLR-1 and BLR-2.

The complainants pointed out that a batch loaded report is a product of the Dominion Election System's server, EMS, that shows all

batches of ballots that have been counted along with the status of each batch. However, a county is not mandated or required to use the BLR feature in EMS, nor is the BLR used to report election results to the Secretary of State's Office. Rather it's a mechanism that exists to any counties for the tracking and reconciling of batches and number of ballots scanned.

The BLR is also a running document, meaning it is one document in which the totals will constantly change when updated and each update overrides the previous total amount. In column H of the BLR in the complaint, the column reads "published." It should be noted for the record, published means the data can be viewed and/or printed in report format.

Respondents provided the SOS investigation division with a final BLR and the final tally on the BLR for the recount was 527,925, which is Exhibit Number 6 in the report. Through the com -- throughout the complaint, the complainants incorrectly referred to ballots cast as votes counted and referenced that a BLR was used by Fulton County to report official vote count results when such report is not used for that

purpose.

The question remained as to how Fulton County reconciled the discrepancy between BLR-1 and BLR-2. Counties report all official election results through the Election Night Reporting or ENR system. Each county will gather all the election results, prepare a report, and upload the final official results into Dominion's Election Management System or EMS Results Tally Reporting, RTR, System.

The RTR is the main application for postvoting activities. It receives election results from the tabulators, allows for validation of the results, and reports the results. The counties are then required to export and upload the RTR results into the ENR at which time the election results are received by the Secretary of State's Office.

This is the process that all counties follow when reporting election results information to the Secretary of State. During the recount, Fulton County performed three uploads reporting results with the first being on December 3, 2020, at 12:16 a.m., showing total ballots cast as 525,365 with total votes cast in the presidential

contest as 521,452, which is Exhibit Number 7.

The second upload was on December 3, 2020, at 11:04 p.m., showing total ballots cast as 527,925, the total votes cast in the presidential contest as 523,779. That's Exhibit Number 8.

And the third upload was on Friday, December 4, 2020, at 12:27 p.m., showing total ballots cast as 527,925 with total votes in the presidential contest 523,779, same as the second upload, Exhibit Number 9. Respondents also provided the corresponding reports to support the numbers uploaded into the ENR.

SOS investigators interviewed director Williams regarding the BLR and the uploads to the RTR for the recount. She reported that certain batches of the ballots were initially scanned with an ICC or ImageCast Central scanner programmed with the same tabulator and batch number. So the RTR interpreted them as one and rejected scanned ballots as a duplicate batch.

Respondents looked into the cause of the discrepancy and eventually isolated the discrepancy to the duplicative programming of the ICC scanner. This issue was corrected by separating all 97 batches scanned on the

duplicate ICC and rescanning them for accurate reporting on the RTR.

Prior to rescanning, Fulton County made sure representatives -- representatives from each political party, the SEB's independent monitor, and others were aware of the discrepancy, what caused the discrepancy, and were present to witness the rescan. Respondent's confirmed at that point they had a total of 506,127 scanned ballots. After they rescanned the initial rejected batches of ballots totaling 21,798 votes from the tabulator 816, Exhibit 10, the final total of ballots scanned was 527,925.

Respondents acknowledged BLRs were referenced during the status update discussion about the discrepancy but only used them as a reference in trying to determine what went wrong and how far off they were in the count. There is no record of the respondents submitting official results to the Secretary of State's Office on December 2, 2020.

Complainants have further alleged that Respondent failed to provide all ballot images from the recount in response to an open records request. In response to an investigator's

subpoena, Respondents provided to the SOS investigations division a thumb drive that contained 518,906 ballot images from the December 2020 recount, which is Exhibit Number 11.

Respondent reported during the recount Dominion Voting Systems loaned Fulton County four scanners for the recount. Respondent was unsure exactly which counties Dominion had borrowed the scanners from and those scanners have since been returned. The SOS investigations division asked Respondent to provide documentation to corroborate this account.

Respondent further noted that the memory cards that were used in the borrowed scanners have since been redistributed and used in subsequent elections.

As noted in the SEB monitor's January 2021 executive summary, Fulton County acknowledged that technical issues during the recount that include failure to properly follow -- follow protocols for backing up data to servers, as a result, while Respondent may not have all the ballot images, they do have all of the physical ballots which are still being preserved under

seal due to a pending litigation hold.

Complainants allege that ballot images should have been available, claiming in a separate e-mail to SOS investigators that all ballots of an entire batch must be scanned successfully for it to be accepted and processed, Exhibit Number 12.

The system would only accept ballots in a batch -- and this is -- this is from the complainants. The system would only accept ballots in a batch and not just single ballots. There is no way in which an election worker could choose to save or not save ballot images as the only prompt they're given is to either accept or reject the batch by selecting yes or no. If the worker selects yes, then the entire batch, including the ballot images for every ballot in the batch, is process as one unit. If the worker selects no, then the worker must start over and scan the entire batch.

This assertion is partially correct as this only applies to counties whose central scanners and servers are housed at the same location. With Fulton County, their central scanners and EMS results tally and reporting workstation

during that time was housed at different locations. And therefore the respondents had to follow a different process to import election results.

This process required county workers to first download the results onto a form of removable media. They then had to upload the results from the media into the RTR workstation at the second location. During the upload process, the RTR provides the users three options which to choose. The user can select the box for load results file, load ballot images, load log file, or choose all three.

If the load result file is the only option selected, which was a required option, then no ballot images would be uploaded into the RTR. Therefore, it is important to note that ballots can be scanned and tabulated without capturing ballot images.

Fulton County further highlighted that their new location now houses both the central scanners and the EMS results tally reporting workstation server, therefore every ballot scanned will automatically create the results file, ballot image file, and log files at the time is scanned.

They no longer have to go through the import process.

Furthermore, the preservation of ballot images was not required in 2020. It was not until the passage of Senate Bill 202 in 2021 that ballots images were deemed public records subject to public inspection under the Georgia open records act.

Finally the complaint -- or not finally but complaint number 3, the complainants allege the original election night vote count included results for ten advance voting tabulators -- tabulators, also called precinct scanners, for which Fulton County has no records. In support of this claim, the complainants reported that they submitted an open records act request for the tabulated tapes for ten advance voting precinct scanners in response -- in response to an open records act request. And a Fulton County employee responded to the request by stating the requested documents do not exist.

Complainants thus concluded that no documentation for the ten advance voting tabulator exists and that no documentation of the ballots tabulated on those scanners exist.

It is important to note the purpose of the tapes. The tapes are produced by the precinct scanner after the polls have closed. They serve as a paper back-up to the memory card that stores ballot tabulation and are not part of the process by which official results are reported by counties to the Secretary of State.

On January 8, 2024, the respondent advised SOS investigators that they have all documentation for their precinct scanners in question. However, storage issues have been complicated after Fulton County relocated all of its records to its new warehouse. The respondent escorted SOS investigators to the location where the 2020 election records were being stored and said that they would search for supporting documentation and provide it to investigators.

Between March 5, 2024, and May 3, 2024, the respondent provided the Secretary of State's investigators with documentation on the ten AB tabulators, and that is in Exhibit Number 13(a) through (j) in the file.

This evidence consists of zero tapes opening the polls, zero count forms, daily recap sheets, and result tapes. The respondents also provided

photographs of nine of the ten scanners, including their serial numbers.

She also provided sworn affidavits from eight poll managers who attested that the ICP scanners in question associated with the advance voting locations that they managed existed and were utilized by voters to scan their ballots during advance voting for the November 3, 2020, election. Accompanying each affidavit was a copy of a tape, either zero or results or a recap sheet to -- to show signatures on the affidavits matched those on the election record.

Fulton County provided documentation to evidence the existence of the ten tabulators in question which show 12,799 of the 20,713 in-question ballots. Respondent advised they were still in the process of searching through approximately 700 boxes of 2020 records for the recap sheets and results tapes for the AB locations. The actual paper ballots are also still preserved.

The complainants assumption that because tabulator tapes have not been produced and the paper ballots themselves are unaccounted for is simply incorrect.

Complaint number 4: The complainant alleged that an individual by the name of Ryan Macias had communications with former Fulton County elections director Richard Barron about the discrepancy with the election night -- the recount vote results.

Complainant stated Macias was not a Fulton County employee, Happy Faces employee, Fulton County contractor, nor a Fulton County vendor. Respondent provided a memorandum of understanding between The Elections Group, LLC where Macias was employed and Fulton County Board of Elections and Registration which was signed off by the Fulton County manager and Fulton County attorney approving The Elections Group to serve as a consultant for the 2020 general election.

So we can get into the investigative findings. For complaint number 1, the complainant's allegation that Fulton County had multiple batches of ballot images that were repeated in another batch was partially substantiated. The investigation identified a series of BMD printed ballots and hand-marked ballots repeated in the same order in a separate scanned batch from the first batch. A review of

the hand-marked ballot images appeared to be duplicate ballot images based on the unique -- on the unique markings on the ballot. However, regarding the BMD-generated machine ballots, the selections were the same but there was no distinct markings on these ballot images to positively identify them as duplicate ballot images.

The investigation also submit -- substantiated that resident -- respondents did not follow proper batch management procedures for the recount in violation of SEB rule 183-1-15-.03.

Following the submission of the initial ROI, or report of investigation, the investigation division conducted further inquiry with technical experts and learned if an error occurs while images are moved over to the results tally reporting system for processing, it will require that the particular batch with the error to be rescanned. When those images are rescanned, the second scan creates a new batch with the same previously scanned images.

At this point there are repeated images as a batch was required to be rescanned. However,

only the batch that is published and validated is included in the results. As a result of this, there are instances where a county may have repeated images without the repeated images being included in the tabulated results.

Complaint number 2: The allegation that Respondent uploaded vote totals of 511,543 which was 17,234 votes fewer than the votes counted on election night was unsubstantiated. The investigation uncovered that the complainant conflated ballots cast with total votes. As a ballot can be cast without a vote for the presidential contest, the two terms cannot be considered interchangeable.

Furthermore the investigation revealed Respondent reported its recount results late due to a count discrepancy caused by a scanner programming error. As a result, the respondent did not submit official results until December 3, 2020, which was after the December 2, 2020, deadline.

Lastly, the document that complainants relied upon to suggest the respondent submitted official results on December 2, 2020, was a batches loaded report. However, counties are not

required to use those forms and the BLR is not used to report official results.

Respondent acknowledged BLRs were used in discussions about the discrepancy but only as a reference in determining what the totals were and should have been and determined the cause of the discrepancy. There is no record of the respondents submitting official results to the SOS on December 2, 2020.

Complaint number 3: The allegation that Fulton County did not have records for ten advance voting locations for the November 2020 general election was unsubstantiated. The respondent provided documentation to establish the existence of the ten tabulators.

Number 4: The allegation that Ryan Macias was not a contractor with the Fulton County Board of Elections and Registration or employee center was unsubstantiated. The respondents provided a memorandum of understanding signed by the county attorney's office and the county manager's office approving Ryan Macias to serve as a consultant for the respondent during the 2020 election cycle.

So for potential violations, there is

sufficient evidence to suggest Respondent violated SEB rule 183-1-15-.03, regarding recount procedure, when respondent failed to ensure the recount was completed through a precise controlled process that is sure for each ballot scanner used in the recount, no more than one ballot container was unsealed at any given time, and failed to ensure a clear audit trail was maintained at all times during the recount.

And that's the case.

MR. FERVIER: Thank you very much. I think that what we'll do is hear from the respondents first and then if the board has questions, they can ask questions.

Would respondents like to -- if you'd press your button, then I will turn on the mic. Okay.

MS. BRUMBAUGH: Hello? Well, thank you for that very thorough analysis of the allegations. I'd just like to say on behalf of my client that they have cooperated fully with the investigation. They've spent countless man-hours on it of their own, searching through old boxes, looking for all this documentation from 2020.

We don't really disagree with the findings of the Secretary of State's Office. We would

simply request that this board issue a letter of reprimand in this case, consistent with what this board did in February with another Fulton County case about the 2022 election.

In both cases the issues did not involve anyone's vote being denied. And so the decision was made in February that a letter of reprimand was -- was sufficient and that it was not necessary to send this to the Attorney General's Office. So we would ask for a consistent response in that -- in that -- because of that.

If y'all have specific questions as to the facts, I'm happy to answer them or refer to several members of senior staff here. I'm not going to go into each factual allegation except to say that, as has been stated several times, this has been addressed -- this is now the third time we're addressing these issues.

The first time was the -- I think it's the Seven Hills independent monitor that was on-site the night of the recount. He actually noted -- I think it's allegation number 2 where there was an ICC scanner -- well, there were two scanners that were named the same thing so that when the second scanner was uploaded, it basically deleted the

first scanner's results.

And so that's why there was a discrepancy and that's why there was a -- a second -- you know, Fulton County figured out: We've got a problem, several thousand votes. What's the problem? They figured out what had happened and they reloaded the votes and we had the results that were consistent with both election night and the hand audit. That's already in the Carter Jones report at pages 6 and 13 if you want to go look at it. So that is not new.

The other issues were also brought up in both the Carter Jones report and the performance review. So these are not new things.

As a result of those two independent investigations; we now have a new board; a new senior staff; a new location, which is enormous and beautiful and can fully handle the five or six hundred thousand votes that will be coming in in November, which was not the case in 2020. And because it was not the case in 2020, there were some workarounds and there were some -- as the investigator stated, you know, not everything was being done in one location. And we had to do it in different locations and that meant there had

to be some patchwork things, which may have led to some of these problems.

So we have a new board, we have a new senior staff, we have a new place where we can do everything in one location, and we have multiple new standard operating procedures which have been put in place over the last six elections since the 2020 election.

So we have three and a half years of a compliant, cooperative, new elections board that is making changes, it's succeeding at those changes, and we just need to go forward now and think about 2024 and let Fulton County --

MR. FERVIER: Let's be respectful to our speakers, please.

MS. BRUMBAUGH: Let Fulton County demonstrate that it has got the right operating procedures, that it has got the right stuff, and it has got the right location which will enable them to -- to go through these processes smoothly, transparently, and accurately.

Thank you.

MR. FERVIER: Thank you. Does the board have any questions?

MR. LINDSEY: (off microphone) Let's take it

up (inaudible) corrections if I may, Mr. Chairman. I think there's some questions about --

MR. COAN: I just turned on the mic.

MR. LINDSEY: Thank you, guys. Sorry about that.

I think perhaps there are two different directions. One is -- is -- any questions about the 2020 and then there's some questions about 2024 in terms of making sure that we have a -- have a accurate election in Fulton County in 2024.

So I'm going to yield to somebody who wants to first start off by asking questions about 2020, and I'm going to focus on 2024.

MR. FERVIER: Member Ghazal.

MS. GHAZAL: Yes. I think I'm the only person involved in this who was actually on the board and heard of this already in 2021, including from Fulton County. Everything has changed since then. But is it my under -- it's my understanding that the same underlying activity here that was in -- that was investigated here, was reported investigated, was part of Carter Jones' report and also part of

what instigated the performance review board; is that correct?

MR. BRUNSON: Yes.

MS. GHAZAL: So all of these have already been investigated. They have been exhaustively gone -- gone through, including the double-scanning. And I understand that the double-scanning did not lead to double-counting in terms of the vote totals. But just for sake of argument, assuming it were counted, it were included in the tabulations, what is the total net difference that we would see in the counts?

MS. MCGOWAN: So that is noted in the report.

MR. BRUNSON: Yeah.

UNIDENTIFIED SPEAKER: (off mic, inaudible)

MS. GHAZAL: No. I -- no, sir.

MS. MCGOWAN: There was -- there was actually a net gain for -- for Donald Trump of seven -- seven votes, net gain for Donald Trump. And then Joe Biden had a net loss of 932 votes in the recount.

MS. GHAZAL: Thank you.

MR. BRUNSON: Are -- are you -- are you talking about 31 -- 3,000 roughly?

MS. GHAZAL: Right.

MS. MCGOWAN: Oh, okay. I thought you meant the recount as a whole.

MS. GHAZAL: Assuming -- just for argument sake. If they were actually counted, what -- what's the net difference that we would be talking about?

MR. BRUNSON: Let me find out. Okay, so there were 1,401 votes for Donald Trump and 1,713 for Joseph Biden, 52 for Jo Jorgensen, and 16 which were left blank.

MS. GHAZAL: So roughly a net -- the net difference would be about 300 in terms of the -- the difference between.

MR. BRUNSON: Yeah. Three -- 312.

MS. GHAZAL: Right. Thank you. Thank you. Can I also assume that there were poll watchers from all parties involved in all of the early voting locations, contemporaneously? So the early voting locations where the tabulators -- where -- in question? Did they have poll watchers? If that's --

MR. BRUNSON: I'd have to defer.

MS. GHAZAL: At that time?

MS. WILLIAMS: Yes. Poll watchers were

present at all advance voting locations from both parties.

MS. GHAZAL: Did you receive any contemporaneous reports of problems with the scanners or anything like that?

MS. WILLIAMS: No, I did not.

MS. GHAZAL: So were there -- were poll watchers able to be present when these early voting locations were closed down?

MS. WILLIAMS: They were -- if they were present, I do not know, but they would've been permitted to be present. Yes.

MS. GHAZAL: And were monitors available to observe the tabulation process on election day during the -- when the early voting tabu -- when the early voting totals are tabulated back in the headquarters, is that -- are there opportunities for poll watchers to be there?

MS. WILLIAMS: Yes.

MS. GHAZAL: Were there any contemporaneous reports or problems with any of these scanners at the time?

MS. WILLIAMS: No.

MS. GHAZAL: Thank you. I have no other questions.

MR. FERVIER: Member Johnston.

DR. JOHNSTON: I do have a number of questions. I'd like -- I'd actually like to break it down into each complaint. And let's start with complaint number one: the 700 machine count --

MR. FERVIER: Member Johnston, would you --

DR. JOHNSTON: I'm so sorry.

MS. GHAZAL: Would you identify who you're addressing the question to.

DR. JOHNSTON: I will.

MR. FERVIER: Thank you.

DR. JOHNSTON: I will. So machine count 2, so 700 -- 17,352 ballots counted without ballot images is the complaint. Does the count -- for the investigator, does the count -- or Ms. McGowan, does count 528,777 represent the ballots casts from the November 3rd election day?

MS. MCGOWAN: Yes. That's what's in the report.

MR. BRUNSON: Yeah.

DR. JOHNSTON: Okay. And that's correct. So what is the reason for the difference found by the November 14th hand count of 525,293?

MS. MCGOWAN: I would say because hand

counts are notoriously less accurate than machine counts. And so they were done by -- it was done very -- the risk-limiting audit actually confirms the results. I mean, the result you noted is a fraction of a percent off.

So the point of a risk-limiting audit not to get a completely -- it's not to redo the certified results. The point of the risk-limiting audit is to confirm the accuracy of the certified results. And in this case, the RLA did that.

DR. JOHNSTON: Accurate is not 3,484.

MS. MCGOWAN: The risk-limiting audit was counting total votes cast for president. So again you are confusing total votes cast for president with the total ballots cast. And so the total ballots cast are the 528,777.

As we already noted, not everybody cast a vote for president. And so the risk-limiting audit was only an audit of the presidential race. And so those were the total votes cast for president that were counted.

DR. JOHNSTON: Did we not account for every single ballot that we had in the risk-limiting audit?

MS. MCGOWAN: Yes, of course. Every -- every ballot was counted.

DR. JOHNSTON: So there should've been 528,777 ballots with an accounting for each candidate and no votes?

MS. MCGOWAN: The results of the risk-limiting audit are posted up on the Secretary of State's website. They're just not all included as a result of -- for this particular report, but those numbers are there. And again the risk-limiting audit was only off by a fraction of a percent by the certified -- from the certified results. And it did confirm that it was accurate.

DR. JOHNSTON: I'm sorry. Over 3,000 is not a fraction. And it's not minute?

MS. MCGOWAN: It actually is.

DR. JOHNSTON: All right, next question.

MR. LINDSEY: Hold on, hold on. She -- she was going to respond (indiscernible).

DR. JOHNSTON: Go ahead.

MS. MCGOWAN: It is a fraction of a percent.

DR. JOHNSTON: What accounts for the difference between the next count of machine count 2 of 527,925?

MS. MCGOWAN: That is not something that is necessarily answerable as a result of this investigation. The investigation was merely to confirm whether or not a violation of the election code occurred. In this case we made the determinations and those findings are in the report. It wasn't necessarily to explain everything that happened in 2020. The point -- the point was to investigate the complainant's allegations.

DR. JOHNSTON: Well, there's three counts and there's three different numbers. And I would think that the third count, machine count 2, which is the third count coming right off of the hand count that took those very same ballots and ran them through the big ICC fast scanners should've come up with the same number. And it did not come up with the same number.

So -- so the counts don't agree. One, two, and three, they don't agree.

For the investigator, do you agree that every vote should have a ballot -- ballot image?

MR. BRUNSON: At this point in time, no, it wasn't required.

DR. JOHNSTON: I didn't ask if it was

required. Do you agree that it should have a ballot image?

MS. MCGOWAN: Again, the -- the ballot images should be recorded, but, again, the -- the vote is captured in that paper ballot. The ballot image is not the vote. It is merely a -- an electronic picture of the ballot so that we can go back and people can review them. So it's part of the paper trail that we do -- that we use to contain the accuracy of the results.

So, yes, right now ballot images are required to be uploaded and preserved so that they can be produced in response to a public record. So we would expect there should be ballot images for every ballot.

But, again, in 2020 this was brand-new equipment the counties were getting used to using. They weren't necessarily always doing things correctly. Some of the -- the ballot images were not necessarily preserved, but, again, the purpose of this investigation was to determine whether or not a violation of the election code occurred. And we have presented our findings.

DR. JOHNSTON: Great. That -- that still

doesn't answer the question should every vote have a ballot image?

MR. LINDSEY: Mr. Chairman --

MS. MCGOWAN: Under SB202, yes.

MR. LINDSEY: Mr. Chairman -- wait a minute. During -- during the time of the public getting a chance to respond, we get rattled when it comes to applaud and everything else. But we're now in the investigative phase, Mr. Chairman. And I would ask that you -- respectfully ask that you ask the audience to be respectful, be quiet, and allow the -- the folks who are asking the questions and the folks that are answering the questions do so without disturbance from the audience.

I think it's great when we have it at the beginning, when we have public comment. I kind of enjoyed it. But we're now in the investigative time, Mr. Chairman.

MR. FERVIER: Thank you, member Lindsey. The --

DR. JOHNSTON: Thank you.

MR. FERVIER: This -- this board --

DR. JOHNSTON: Thank you.

MR. FERVIER: -- needs to clearly hear and

understand the questions and answers that are getting asked. And when you interrupt that, it creates a problem for the board. So if you'd please just keep your comments and your clapping to a minimum so we can get through this. Thank you.

DR. JOHNSTON: Does the investigation confirm that there are missing ballot images?

MR. BRUNSON: Yes.

DR. JOHNSTON: Do you know why 380,761 ballot images from election day machine count are not available?

MS. MCGOWAN: We subpoenaed Fulton County for all of their ballot images. We received approximately 518,000 ballot images.

DR. JOHNSTON: From election day?

MS. MCGOWAN: Those are from the recount.

DR. JOHNSTON: Those are from the recount. But we -- we have no ballot images for 380,761 ballots from election day; correct?

MS. MCGOWAN: What was subpoenaed was the ballot images for the recount because that's what this -- this case was about, not the election day.

DR. JOHNSTON: Does Fulton County know why

there are not 380,761 ballot images from election day?

MS. BRUMBAUGH: (off microphone) That's with the investigators. We've not been apprised of this allegation. This is the first time I'm hearing about. And I have no idea what's the basis of that allegation. And so we would have to -- we would have to -- we can't answer that at this time.

DR. JOHNSTON: Would Fulton County agree that every vote should have a ballot image?

MS. BRUMBAUGH: (off microphone) Under the laws and the rules of 2024, yes. And if (inaudible) best practices in 2020, it would've been the same thing. There seems to have been some scanners that were borrowed. Again, we were dealing with multiple locations and new equipment and a pandemic. And there were workarounds. And some of the workarounds involved scanners that were borrowed from other counties. The scanners were then returned.

There has not been the recordkeeping, perhaps, that we would do in 2024, having been through the Carter Jones monitoring for the performance review. And certainly we will

endeavor to keep every record that anyone could ever ask for going forward. And I wish that we had them, but we can only tell you what we have.

DR. JOHNSTON: Thank you. And actually I'm asking about images from election day. I haven't even gotten to the recount yet.

All right. So I would like to -- to read State Election Board Rule 183-1-12-.13, storage and returns. This was adopted January 23, 2020, and made effective February 12, 2020. After tabulating and consolidating the results, the election superintendent shall prepare an electronic file which shall contain a copy of the information contained on each memory card which shall include all ballot images as well as vote totals and a copy of the consolidated returns from the election management system.

Further, the electronic file shall be stored on a secure medium, placed in a sealed envelope or container. It shall become a part of the election materials which shall be deposited with the clerk of the superior court along with the signed results tape, along with the paper ballots given to the clerk of the superior court.

So are the -- were ballot images required to

be kept and stored?

MS. MCGOWAN: Who are you directing that question to?

DR. JOHNSTON: The investigator.

MR. FERVIER: Which -- I have a question, the chair.

MS. MCGOWAN: Yes.

MR. FERVIER: Was this requi -- was this a part of the complaint?

MS. MCGOWAN: No.

MR. BRUNSON: No.

MR. FERVIER: No. Okay.

DR. JOHNSTON: Okay. Do the --

MS. MCGOWAN: If the board wants to consider additional rules or additional possible violations, you're certainly free to do that.

DR. JOHNSTON: Thank you.

For the investigator, did the investigator find the 17,852 ballots that correspond to the missing ballot images in the recount?

MS. MCGOWAN: I'm not sure you un -- we understand your question. Could you please restate that.

DR. JOHNSTON: So if -- if there has to be a ballot for each vote or a ballot image -- a

ballot image or a ballot for each vote and there are 17,852 missing images, did -- did the investigators look further to find those actual ballots?

MR. HUMES: What the investigation determined was that there were 21,798 missing ballots when you do not conflate ballots cast and votes cast. So because they had an ICC tabulator that had -- we had a duplicate name and those images were rejected. When it was rescanned, it was 21,798 ballot images that were found and added to the 506,000 -- or the 527,000 -- 527,925 ballot cast total.

DR. JOHNSTON: Thank you.

MR. HUMES: So tabulator 816 would've had the 21,798 ballots.

DR. JOHNSTON: Thank you. I'm -- I'm trying to get to the point of finding evidence that 17,852 ballots actually exist. So there either need to be ballot images or we need to go look at the ballots, the paper ballots.

MR. HUMES: Well, that was --

DR. JOHNSTON: It's very simple.

MS. MCGOWAN: As we -- I explained at the beginning, we have the paper ballots. The paper

ballots exist. There's no 17,000 missing ballots. The discrepancy -- the 17,000 discrepancy was because of that scanner error, the programming error in the scanner that got corrected. The results were recertified and re-reported and that accounted for the -- the 17,000 difference. There was no missing ballots. Like I said, we have hand counted every single ballot.

DR. JOHNSTON: Great. Can -- can -- then let's look at the paper ballots. The ballot image is supposed to be accompanied by a Shaw file which proves that the ballot image has not been tampered with. Did Fulton County -- this is a question for Fulton County -- find and confirm the Shaw files for all of the ballot images?

MS. BRUMBAUGH: Respectfully, this is outside the scope of the original complaint. And as Ms. McGowan has stated, if there are further investigations or further complaints to be made, that's one thing. But today we need to stay within the confines of this complaint. So we don't have an answer to Shaw files. Shaw files were not part of the complaint. They're not a part of the investigation.

DR. JOHNSTON: Thank -- thank you very much. This is about the vote totals in an election and the Shaw files are part of the evidence that shows that the vote has -- was not tampered with, that the ballot or the image of the ballot was not tampered with. And it actually exists.

And actually I did request the Shaw files. I asked for that four months ago and I'm sorry that you were not informed.

So were the Shaw file -- and that -- to go further, the Shaw files are part of the electronic record that should have been kept according to State Election Board Rule 183-1-12-.13. So it's simply a matter -- and -- and those are retained by the superintendent and the clerk of the court. So an unanswered question, okay.

For the investigator, do you agree that a Shaw file -- there's a Shaw file for every ballot?

MS. MCGOWAN: I'm admittedly not a technical expert. I -- as legal counsel to the Secretary of State's Office, I expect there would be, but, again, that was not part of this investigation.

DR. JOHNSTON: Okay. I asked for a

technician to be here to answer some of these questions. Is there a technician here that could answer these questions?

MS. MCGOWAN: No. We have a primary going on right now and our technical experts are busy administering that.

DR. JOHNSTON: For the investigators, do we need to go to the clerk of the court and examine the electronic file and the physical paper ballots?

MS. MCGOWAN: No. This has been an exhaustive investigation. We have spent hundreds of man-hours on it. As counsel for Fulton County reported, they have been very cooperative. They have spent hundreds of man-hours while they have been administering this primary that is going on right now.

So we feel like this has been exhaustive. We've researched all of the documentation that we needed to reach our conclusions.

DR. JOHNSTON: It's hard for me to reach a conclusion that thousands of ballots actually exist. So the -- the only thing I would recommend is that we go to the clerk of the court, obtain the electronic file that should

contain all of the ballot images and the physical paper ballots for review.

So MC -- machine count 2 has 17,352 votes for which there are no ballots and no -- and still no ballot images.

Let's move on to complaint number 2. It's duplicate scanned ballots. For the investigator, do you agree that ballots were double-scanned and counted in the record -- in the recount?

MS. MCGOWAN: We would agree that the evidence suggests that there batches of ballots that were double-scanned. We cannot conclusively state that they were included in the tabulated results.

DR. JOHNSTON: They were scanned but not counted?

MS. MCGOWAN: We cannot conclusively state that they were included in the tabulated results. And this was discussed in the report materials that you received.

DR. JOHNSTON: The -- I'm not sure I understand that conclusion. How did you conclude that?

MS. MCGOWAN: Again, we didn't conclude anything with respect to that. We could not

conclusively state whether or not that was -- that those possibly duplicative ballot images were included in the count because it is possible, noting that there were some errors in the scanning process -- or -- or mishaps during the scanning process.

The way the system is is that as -- as counties are loading results to the RTR, if there is a -- an error message for a particular batch, the county will have to rescan that batch. And before uploading it to the RTR, they will have the option to delete that scan so that they can redo it so it's not duplicated. They have to delete both the -- the ballots -- or the results as well as the ballot images.

It's possible in this case that they were re -- having to redo a batch that they deleted the results part of the file but not the image part of the file. And so there is a way that it is possible for there to be duplicative ballot images that appear within the images but not necessarily with the count.

Again, we can't say conclusively one way or the other because ballots are anonymous and there's no way to -- to know for sure.

DR. JOHNSTON: Well, that sounds very confusing. There were over 6,000 errors or duplicates in the RLA and three -- over 3,000 -- I -- I -- I have three numbers now, over 3,000 duplicate scanned ballots in machine count 2. But you're saying they may not be duplicate ballots -- or duplicate counts?

MR. HUMES: When we reached out to our technical representatives, they basically explained it this way. When the results are being uploaded into the RTR, if an error is found after the scan, the initial scanned ballots, the images will be there. But once they rescan it, you will have a second set of ballots scanned during the second scan. But the second scan or the second batch that's scanned, those results are tabulated when those results are tabulated and published.

So you can have multiple scans but the second batch that's included in the results are the ones that are tabulated and published.

MR. FERVIER: So the first, second, third, however many prior ones are discarded and only the final scan will be counted?

MR. HUMES: Well, they -- they will be in

the system unless deleted, but they won't be included in the results. So the images are there but they're not counted in the results.

MR. FERVIER: Right. Because they recognize it was duplicates.

MR. HUMES: Correct. And then the user has to accept, tabulate, and publish.

MR. FERVIER: Is there any way for them to accept all of the duplicates?

MR. HUMES: That's a little more technical, but that -- I do know that the system allows a user, given the option to rescan, accept, and then you have double images -- repeating images, I should say, but it doesn't necessarily mean that all of the images were included in the results.

MR. FERVIER: Let me ask you a question. There were three counts on this, right? You had the original election night, you have a hand recount, then you have a machine count. All of them came up with substantially the same numbers, within a thousand or two votes or whatever; correct?

MR. HUMES: Correct.

MR. FERVIER: So in order for somebody to be

duplicating counts, they would've had to do it in all three of the counts -- election night, plus the hand recount, plus the final count -- correct?

MR. HUMES: To be consistent --

MR. FERVIER: They had to have the same fraud --

MR. HUMES: Correct.

MR. FERVIER: -- the same collusion --

MR. HUMES: Correct.

MR. FERVIER: -- on all three counts --

MR. HUMES: Correct.

MR. FERVIER: -- in order for that to be the case.

MR. HUMES: Yes, sir.

MR. FERVIER: Was there any evidence of that happening?

MR. HUMES: No, sir.

MR. FERVIER: Thank you.

DR. JOHNSTON: Does Dominion have the ability to detect duplicate ballots?

MS. MCGOWAN: The way the system works is that it is setup to reject what appear to be duplicate batches. So if they have the same scanner and batch number, the -- the -- our

results system, our printing system is designed to not accept duplicates and to reject one of them. And that is exactly what happened and why you have that 17,000-vote discrepancy is because of that duplicate -- the results system was reading it as duplicate batches even though they weren't because the scanners had the same number. So that is where it is designed to prevent duplicates in the results.

MR. FERVIER: Let me ask a question about the hand recount, please. So in the hand recount, they had physical ballots that were counted.

MS. MCGOWAN: Correct.

MR. FERVIER: Every one with a paper physical ballot, they were counted; correct?

MS. MCGOWAN: Yes, that's correct.

MR. FERVIER: Was that -- when that hand recount happened, was it witnessed by poll watchers from both parties?

MS. MCGOWAN: Yes. Poll watchers, observers, media, lot of people present witnessing the -- the hand count in Fulton County.

MR. FERVIER: Did anybody find any evidence

of duplicate counting during that hand recount?

MS. MCGOWAN: Not the same thing that we're seeing here. We -- we did have a prior case that the board took up that involved some -- some issues with the RLA. But the board already addressed that in a prior case.

MR. FERVIER: But the hand recount had substantially similar results to the original election and the machine count.

MS. MCGOWAN: Correct.

MR. FERVIER: Thank you.

DR. JOHNSTON: Question for the investigator. How would you identify a double-scanned ballot?

MR. HUMES: Oh, so basically what we did, as indicated in the report, we identified all of the hand-marked ballots. We sent a team of investigators to review and analyze each ballot, and they had distinct markings to show that they were repeated ballots on the hand-marked ballots. We looked in -- we determined if there was a write-in, the bubbling of the circles. If there were distinct characteristics of the circling or the filling in of the bubbles on the ballot, then that's how we determined repeated ballots.

DR. JOHNSTON: Thank you. So those -- those would have been counted; correct?

MR. HUMES: Not necessarily. Only because if those ballots were scanned and were part of a batch that was rejected, the images were captured in the system but once rescanned and then it was tabulated and published, then those ballot images would have been captured. So you can have multiple ballot images without being included in the results.

DR. JOHNSTON: So Dominion machines are so smart that they can detect a duplicate ballot?

MR. HUMES: A duplicate batch.

DR. JOHNSTON: A duplicate --

MS. MCGOWAN: Yeah. It detects the -- the scanner number and the batch number and it can reject things that have the same combination of those numbers.

DR. JOHNSTON: Did that occur during this recount?

MS. MCGOWAN: Yes. That's exactly what is detailed in our report.

DR. JOHNSTON: That all of the duplicate batches were detected and deleted?

MS. MCGOWAN: No, that there was an incident

where because two scanners were programmed with the same number, that certain batches of -- of ballots were rejected because of that programming error.

DR. JOHNSTON: Oh, I understand. But the report -- the allegation is, from Mr. Rossi, that 3,125 duplicate ballots were counted. I'm -- I'm not talking about the ICC-14 scanner that -- that ballots were misnamed and reloaded on it, I'm talking about 3,125 duplicate ballots that were counted.

MS. MCGOWAN: And again, as we concluded and it's in the report, we did partially substantiate that we believe that there are duplicate ballot images. Whether or not those were actually included in the tabulated results is inconclusive.

DR. JOHNSTON: Well --

MR. FERVIER: Well, next question --

DR. JOHNSTON: Well, what do you believe? What do you believe?

MR. FERVIER: Let me ask a question. You made a comment you didn't know whether they were included, but you just told me that you had three different counts that came up substantially --

one of them was a hand recount. So if there were duplicate ballots, it would've shown in the hand recount along with the other two; correct?

MS. MCGOWAN: I think that's a reasonable assumption. Also because the results of the recount were actually lower, somewhat lower, marginally lower than the originally certified results. So if you had 3,000 ballots that were counted twice, you would expect the results to be larger by that amount.

DR. JOHNSTON: Right. So in the hand re -- in the hand count, Governor Kemp's team found 6,653 errors or duplicates. So -- and that was in the count and the totals were given. And to my knowledge those count totals have never been amended or -- or reversed. And likewise the 3,125 that Mr. Rossi found are -- are duplicate counted ballots.

Could I ask Mr. Rossi, is -- am I stating -- am I interpreting this correct?

MR. ROSSI: I can really help with this and all due respect if I can have just a couple minutes, I think I can clear everything up.

MR. COAN: Hit your microphone.

MR. FERVIER: Can -- can you --

DR. JOHNSTON: Please, in two minutes.

MR. FERVIER: Please --

MR. ROSSI: Two minutes. Two minutes.

DR. JOHNSTON: Okay.

MR. ROSSI: Okay. I'm an expert on the hand audit, okay? And as Dr. Johnston said, it's been vetted and found factual by Governor Kemp's team who investigated it for over six weeks. The numbers did match. You were right, Mr. Chairman.

The reason they matched is because they include the duplicated -- duplicated counted ballots. The duplicates are over 6,000. The net difference for candidate Biden are four thousand -- 4-0-8-1 net false absentee ballots counted for candidate Biden over candidate Trump in the hand audit.

And that is only a subset of the 527,000 that were looked at. That was only the hundred and forty-eight thousand absentee ballots. For those of you that do math, if you do four thousand -- 4-0-8-1 and divide it by 148,000 that's almost a 3 percent -- much more than a fraction, a 3 percent error rate.

So to answer you question, yes, the hand audit got to 527, but how they got to 527 was

over 6,000 duplicated and the net difference being 4-0-8-1 for candidate Biden. I hope that clarifies this.

DR. JOHNSTON: Thank you.

MS. GHAZAL: Excuse me. Excuse me. This has been adjudicated and the numbers are entirely different that were -- that were found by our investigators two years ago. I cannot let those numbers stand on the record because they are incorrect and our investigators found the numbers and it was in the hundreds not in the thousands.

MR. ROSSI: I know this is not meant to be a --

MS. GHAZAL: No, sir, I'm sorry --

MR. ROSSI: This is not meant to be a back and forth, but when Dr. Johnston asked the investigators when they did their investigation, Tell me -- tell me the totality of the errors -- you can go back and look at the transcript -- Investigator Sagorin said -- and you can almost quote me -- We did not go into that for this investigation. Look at the transcript, please.

MS. GHAZAL: There is a concept called res judicata which is the civil equivalent of double jeopardy. We have already heard this. It has

been done. It is finished. This is not the case at hand.

The audit, which is never intended to have an equal total, the audit is intended to identify the candidate who won and whether or not the totals accurately identify that. I want to make sure that we're doing the right thing, that we're actually talking in the correct language here. And that the record reflects accuracy and truth.

MR. FERVIER: Thank you.

DR. JOHNSTON: Thank you. Thank you.

More questions. Dominion Voting System company says that Shaw files cannot be deleted. Is there a Shaw file for each ballot in the recount?

MS. MCGOWAN: Again, that was not part of the complaint and that is not part of this investigation.

DR. JOHNSTON: It is a part of the total count. This was the -- the recount became the certified count for the election. So anything that has to do with the certified count of the votes and the ballots for the election is part of this complaint and the recordkeeping thereof and the documentation and authentication that this is

a valid count.

So the Shaw files have everything to do with it. And actually they should be part of the electronic file that is kept with the clerk of the court and the superintendent of the county. Are there Shaw files for all 527,925 ballots in the recount?

MR. BRUNSON: We didn't obtain the Shaw files.

MS. MCGOWAN: But that -- that's not part of this investigation and maybe Fulton County can shed more light on your question. But that was not, that was not part of this investigation.

DR. JOHNSTON: Thank you. Because I asked for that four months ago. So it is -- and I'm -- I'm -- I'm given the duty to investigate. So it is part of the investigation. So I'm -- I'm sorry that it's not available.

Is -- do you find that Dominion machines are prone to or vulnerable to -- to double-scanning of ballots?

MS. MCGOWAN: No, not at all.

DR. JOHNSTON: Okay. Is the results --

MS. MCGOWAN: Well, you said double-scanning. I -- I explained before how

they are intended to reject what the results program interprets to be duplicates. There's certainly -- election workers can certainly scan things twice. It's just a matter of when they accept the scan and accept the results and that those results are uploaded. That is where the system is designed to detect duplicates.

DR. JOHNSTON: Right. So it detects a duplicate named batch but it doesn't really detect a duplicate ballot; correct?

MS. MCGOWAN: Correct.

DR. JOHNSTON: All right. Is Results Tally Reporting prone to -- prone to or vulnerable to double-scanning of ballots, uploading of ballots?

MS. MCGOWAN: You're mischaracterizing what the RTR is. The RTR is to -- is to report results so it doesn't --

DR. JOHNSTON: I'm sorry, votes, to be correct. So MC-2 has missing Shaw files, missing ballot images. So without a ballot image, without a Shaw file it's really not a valid vote until proven otherwise, which means asking for the paper ballots.

So let's move on to the third complaint. It's the issue of ten tabulators with inadequate

documentation from election -- the election day. It appears that the investigators were able to find some document over -- concerning ten tabulators. How were they found?

MS. MCGOWAN: I think Fulton County can provide the answer for that.

MS. BRUMBAUGH: (off microphone) There was extensive (indiscernible) going through boxes and boxes and boxes and more boxes. And so that's how they were found. Obviously that's how the zero tapes were found. That's how the results tapes were found. That's how the scanner recaps were found.

There have been poll manager affidavits which were filled out (indiscernible). You all have copies of those. And then there are photos of these scanners which were identified from the zero tapes and results tapes which would've had serial numbers and then taking those serial numbers and then finding those scanners. So that's how the documents (indiscernible) to be found.

DR. JOHNSTON: Thank you. Thank you for finding the serial numbers. The complaint -- four months ago, I asked for supporting

documentation that showed the use of the scanners in the election and the evidence provided included seven opening zero tapes, ten -- I'm sorry, two closing results tapes, two daily recap sheets.

But these ten scanners have no ballot images associated with the ballots that were scanned on those -- on those scanners. They have no memory cards with the ballot data, the ballot images.

So the question is associated with each -- each action of the scanner, which is actually our ballot box -- so it -- it's the voter counter and the ballots box were rolled into one, there are -- there's a chain of custody, a documentation that every ballot that's put in there and scanned should be validated, documented, reported, and documented. And that election material should -- the document should be preserved.

So I -- I did a spreadsheet, a chart and -- of all the things that are needed, from acceptance testing of the scanner to serial numbers to logic and accuracy testing proof, a scanner test security form, a transport manifest, opening seal numbers on scanners -- the little

seal tag, protective tag -- opening zero tape proving that there are zero counts on those scanners and opening protective count number which is the count on the scanner of total ballots that have been -- been run through that scanner to date, also a chain-of-custody form should the ballots be taken out of the ballot box because it gets too full, a daily recap form, a security seal on the memory card, closing results tape which is a closing tape that's printed out that says this many ballots have been scanned on this scanner so you have a match from a zero tape to the closing of the poll tape, closing protective count number to make sure that the -- protect the total ballots that have ever gone through that machine equal the same thing, along with the votes, the ballot re -- ballot recap, I mentioned, an envelope that would -- would be transmitted with the tapes, the memory card and along with the scanner, consolidated return sheet, ballot images, voter binder certificate, and a numbered voter list to match with how many people voted at that polling place with the number of ballots that were -- were made and the number of votes that were -- and the number of

votes that were counted along with Shaw files, log files, and the electronic file in the memory card.

There are over 150 missing pieces of information that I have asked for on these ten scanners. And all of these have an associated log -- code number or a State Election Board rule. So I would consider this over a hundred and fifty violations if these are not produced, if they're not available.

MS. BRUMBAUGH: (off microphone) Well, we weren't asked for them. The complaint did not allege that. The complaint alleged that ten tapes that should've been run the night of the election or at the end of the advance voting were missing.

We have provided documentation that shows those scanners existed, that they were taking votes, and that chain of custody, at least insofar as what happened at the precinct, was followed. We gave you that information. We have given as much information as we have been asked for. We've gone above and beyond.

We are certainly welcome should people ask for information more. We can provide it if we

can find it.

But, again, we are running an election now. We will be running an election in November. And doing what's right in 2024 is more important than coming back and rehashing 2020 when it was counted three times and then there was a Carter Jones review -- Mr. Jones was there that night. Mr. Jones who observed some of these problems but didn't observe them all -- and the performance review.

So I would respectfully ask that you issue us a letter of reprimand. We understand that we were not perfect in 2020. We are committed to being much better in 2024 as, again, we have a new board, new staff, new building, and new procedures. We have had six elections since 2020 in which these problems have not presented themselves. And we'd ask that we move on with the rest of this agenda.

MR. FERVIER: This investigation has been going on for four years now by multiple different agencies and groups and state election boards and everybody else in the world. The chair would entertain a motion at this point.

MS. GHAZAL: I would move that we dismiss

this because we have already heard this case multiple times. We have referred it. We have had a performance review board. So I would submit a motion to dismiss.

MR. FERVIER: There is a motion to dismiss this from member Ghazal. Is there a second? Hearing no second, the motion does not move. The chair will entertain any other motion a member might have.

DR. JOHNSTON: I would like to make one.

MR. FERVIER: Pardon me?

DR. JOHNSTON: Certainly, Mr. Chairman.

MR. FERVIER: Yes.

DR. JOHNSTON: Okay. There is enough evidence to suggest that the respondents violated Georgia election laws and State Election Board rules to such an excess that we should be embarrassed for the Fulton County registration and elections, we should be embarrassed for the chief election official of Georgia and its election division, and, yes, we should be embarrassed for the State Election Board and its dysfunction in handling this case.

The facts tell the story of a county's negligent conduct of an election and reveals the

reality of how difficult it is to have one's grievances addressed in a timely manner, if at all. When -- but this complaint, especially coupled with the full hand-count audit complaint by the same complainants suggests election conduct that is unacceptable.

And the State Election Board should address each complaint and then consider the appropriate action. First, the problem with election day count and the failure to properly secure, protect, and document the safety and authenticity of the votes from ten advance voting locations is appalling. Record -- recordkeeping is abysmal. Proper documentation to ensure the public that votes or ballot boxes have not been tampered with is shamefully poor.

The opportunity to electronically stuff the ballot box was obviously available and that has left a film of doubt and suspicion over Fulton County that may be impossible to wipe away unless something is done to ensure that it's not -- there's not a repeat of multiple violations.

Second, as far as the complaint of the recount, someone should be held accountable for the adding votes electronically or failing or

refusing to produce ballot images to the complainants and maybe even the court or for double-scanning of ballots. Dominion claims its machines do not allow double-scanning of thousands of votes.

The question remains how did that happen? Did Dominion lie to the state of Georgia? Double-scanning and double-counting of votes is fraud. It may be unintentional or just negligence, but nevertheless it's vote fraud. The FBI states that voting twice is a violation of law, and officially counting votes twice is also a violation.

It's a federal election crime and a part of the public corruption unit of the FBI. The election official counter that was counting should be identified -- counting erroneously and held accountable. The results of the RLA hand count or machine recount should be officially amended and reflect the correct totals.

The recount with 17,852 ballot images and more than 16,000 electronically added votes should have -- should have those votes expunged or the paper ballots should be investigated by an independent investigator.

Ballot images were required to be made and preserved as of February 2020. Would the failure to retain 380,000 ballot images from the November 3rd election be indicative of gross negligence? Ten scanners from advance voting have failed to provide the required documentation necessary to confirm that they were used in the elections, were safely secured from tampering, or that the votes attributed to the ten scanners were authentic.

Election supervisors must provide documentation and demonstrate correct procedure for maintaining memory card security. The county broke the necessary audit trail to validate the authenticity of the votes. Either the votes should be invalidated or the paper ballots must be investigated to prove their veracity.

If this is the way to conduct an election, then no election should be certified as true and accurate. And there's no way that this election or recount should have been certified.

Mr. Chairman, I make a motion to amend the RLA totals to reflect the correct totals, amend all records at the county and state level election totals for this election in question to

designate that the accurate and correct vote totals may not be accurate.

MR. FERVIER: Do you have that written down where I can repeat it?

DR. JOHNSTON: I do. I do. I also -- but I have -- further make a motion to request the Secretary of State either invalidate 17,852 votes from the official certification or initiate an independent investigation to determine if 17,852 ballots are authentic.

In addition to the motion, I request that the Secretary of State initiate an independent investigation of the authenticity of the ballots from ten advance voting scanners or expunge the votes from -- from those scanners for the record.

Knowing these inconsistencies and irregularities and being responsible for providing oversight of the supervisor and the conduct of election, I'm concerned about the -- anyone that would -- would have signed to certify that election.

And finally I recommend that we refer it to the Attorney General for immediate review of this case and recommend a monitored team to provide investigative oversight of Fulton County

elections for 2024 to consist of certified public accountants, independent investigators, and state auditors to be funded by Fulton County.

MR. FERVIER: We'll deal with these one at a time. Board member Johnston has made a motion that the amended RLA totals reflect the current totals, amend all records at the county and state level election totals for this election in question to designate that the accurate and correct vote totals may not be accurate and investigate who told Mr. Barron to reconcile --

DR. JOHNSTON: You can leave that out.

MR. FERVIER: Okay. So let me amend that. the motion by member Johnston is to amend the RLA -- RLA totals to reflect the correct totals, amend all records at the county and state level election totals for this election in question to designate that the accurate and correct vote totals may not be accurate.

We have a motion. Do we have a second? Hearing no second, that motion fails to move forward.

Member Johnston has made a motion to request the Secretary of State either to invalidate one thousand -- 17,852 votes from the official

certification or initiate an independent investigation to determine if 17,852 ballots are authentic.

The motion has been made. Is there a second? Hearing no second, that motion fails to move forward.

Member Johnston has made a motion to request the Secretary of State to initiate an independent investigation of the authenticity of ballots from ten advance voting scanners to expunge the votes from those scanners from the record.

The motion has been made. Is there a second? Hearing no second, that motion does not move forward.

Member Johnston has made a motion to refer to the AG for immediate review of this case and recommend a monitor team to provide investigative oversight of Fulton County elections for 2024 to consist of certified public accountants, independent investigators, and state auditors to be funded by Fulton County.

Is there a second? Hearing no second, that motion doesn't move forward.

The chair would like to exercise --

MR. LINDSEY: Mr. Chair --

MR. FERVIER: -- its right to make a motion.

MR. LINDSEY: I'll make a motion.

MR. FERVIER: The chair would like to exercise its right to make a motion. The chair would make a motion to refer to the AG for immediate review of this case and recommend a monitor team to provide investigative oversight over Fulton County elections for 2024.

A motion has been made by the chair. Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: A motion and a second has been made to -- for the AG to immediately review this case and recommend a monitor team.

MR. LINDSEY: Mr. Chairman, if I may. I have been in discussions with the Secretary of State's Office and with Fulton -- thank you, sorry, guys.

I've been in discussions with the Secretary of State's Office, Fulton County. And -- and I believe Fulton County was prepared -- at least the chair was prepared to recommend to its board -- to her board that a monitor be created consisting of entities mutually agreeable to the Secretary of State, to the State Election Board,

and to Fulton County. Am I correct, Madam Chair?

(No audible response)

MR. FERVIER: The chair will withdraw its motion if you'd like to make an alternative motion.

MR. LINDSEY: And -- and my alternative motion would be a -- a letter of reprimand. I mean -- my alternative is a letter of reprimand. There is clear evidence that in 2020 there were numerous violations of regulations and statutes and the county has to acknowledge that.

I think that the letter of reprimand needs to -- needs to lay those issues out. I think as part of that, the reason I'm going for a letter reprimand is to move this forward rather than go through the Attorney General's Office where things get slower and that by -- as part of that motion that we would -- that we will have an agreement -- a memorandum of understanding with Fulton County and with the Secretary of State's Office and with the State Election Board that will be approved by those three entities by our next hearing -- which I believe we're going to have a special hearing in July anyway in order to take up sort of additional regulations.

And my -- my -- the reason for wanting to go through a letter of reprimand rather than referring it to the Attorney General's Office is to move this along so that we can get a proper monitoring in place as quickly as possible rather than go through the delay that often takes place by sending it to the Attorney General's Office.

For that reason -- for that reason, I am recommending a letter of reprimand with the understanding that the respective parties will reach an agreement as to a monitor, mutually agreeable monitor, by the next hearing which is presently being contemplated in July.

MR. FERVIER: A question of clarification. Are you -- would the letter of reprimand detail violations of SEB Board Rule 183-1-15-.03(1)(e) and SEB Rule 183-1-15-.03(1)(f) as detailed in the investigative report?

MR. LINDSEY: Yes.

MR. FERVIER: Okay. So please correct me if I get this wrong. We have a motion from member Lindsey to issue a letter of reprimand to Fulton County in case SEB2023-025, related to violations of SEB Board Rule 183-1-15-.03(1)(e) and violation of SEB Board Rule 183-1-15-.03(1)(f)

and also recommend and work with Fulton County in the acquisition of a monitor for the --

MR. LINDSEY: Fulton County, Secretary of State, and this office.

MR. FERVIER: Fulton County, Secretary of State, and the State Election Board in the establishment of a monitor for the 2024 elections.

MR. LINDSEY: Correct. And if I may, as a part of that, let the board know that should an agreement not be reached as to a monitor in July, that I will come back with a motion to reconsider and send it to the Attorney General. So that's a little bit of emphasis for all of us to reach somebody -- reach an agreeable monitor by July.

MR. FERVIER: We have a motion which I will not restate. Do we have a second?

MS. GHAZAL: For the sake of moving things along and having closure, I will second this.

MR. FERVIER: We have a motion and a second. Are there any discussion?

DR. JOHNSTON: Yes. Mr. Chairman, I don't see why we could not issue a cease and desist and a letter of reprimand with the recommendation of Mr. Lindsey to send this to -- for more immediate

application or implementation of a monitor team in coordinating with the Secretary of State.

But additionally this should be sent to the Attorney General also. With over a hundred and forty violations of election code laws and rules, it would be a travesty not to refer this to the Attorney General and let this ride.

MR. LINDSEY: (off microphone) With all due respect, Mr. Chairman, I'm not -- I'm not letting it ride. I'm trying to get it moved forward with an expedite, getting a proper monitoring system in place.

Get a proper monitor -- (Microphone on) Thank you. I'm on sorry, guys. You're absolutely right. I need to lean forward.

My -- my purpose here is not to let it ride but to move this matter forward so that we can have some -- some assurance regarding the '24 election. That's why I'm doing it the way I'm doing it.

So for that, Mr. Chairman, I call.

MR. FERVIER: We have an intervening motion that we will need to rule on before we vote on the original motion. The intervening motion is to add -- I'm sorry, Dr. Johnston.

DR. JOHNSTON: Add a cease and desist, a letter of reprimand, and a referral to the Attorney General for the violation of over 100 code violations.

MR. FERVIER: So the intervening motion is to add a referral to the Attorney General for the violation of over 100 codes as outlined by member Johnston.

Do we have a second? Hearing no second, that motion does not move. We're now back to the original motion stipulated by member Lindsey. We have a motion and a second.

Any further discussion on that motion? Hearing no further discussion, all those in favor of the motion that originally stipulated, signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition?

DR. JOHNSTON: No.

MR. FERVIER: The vote is two ayes and one no. The motion passes. Thank you.

I want to -- I want to recognize that several people have had to travel quite a way to get to this meeting today, and I don't see any way that we're going to make it fast or finish

with a hard stop at 5:00.

So I do want to go outside the order of the agenda and those individuals that have come from some of these further away counties, we're going to move them up on the agenda and hear them first.

But the first thing I want to hear is the AG's report. Mr. Willard, you are recognized. Thank you, Mr. Willard. You are recognized.

ATTORNEY GENERAL REPORT

MR. WILLARD: Thank you, Mr. Chairman. We have two proposed final orders for the board's consideration today, both arising out of 2014-014, the board has previously considered and adopted negotiated consent orders for respondents in this matter.

We have two additional respondents that we are proposing for final orders. The first arises out of Terrell County. The respondent is April Hilliard. There was an allegation that during the voter registration process that she failed to sign on the appropriate line showing that she assisted her children and her mother in completing their voter registration application.

We are proposing a final order incorporating

a cease and desist and a public reprimand to resolve this allegation against Ms. Hilliard.

The second proposed order is for Santasia(ph) Logan. It is out of Douglas County. Miss Logan worked as a voter registration canvasser during the 2014 election cycle. We have resolved every previous respondent dealing with these allegations, but I have assigned four different attorneys trying to locate Miss Logan since this matter was first turned over to our office.

We have been unable to locate Miss Logan. The Office the State Administrative Hearings cannot proceed with a contested case in this matter unless they know that notice has been made on the respondent. They will dismiss any case that we refer over there.

And so rather than continuing the case in abatement, we are suggesting the board exercises its plenary authority and issue a final order in this case incorporating a cease and desist to prevent the future violation of election law as well as a public reprimand for Miss Logan.

And I'll entertain any questions the board may have at this time.

MR. FERVIER: Does the board have any questions for Mr. Willard?

Dr. Johnston? No.

Is there a motion from the board on this?

MS. GHAZAL: I move we accept the recommendations from the Attorney General's Office.

MR. FERVIER: Oh, let me ...

MS. GHAZAL: I move that we accept the recommendations of the Attorney General's Office.

MR. FERVIER: We have a recommendation from member Ghazal to accept the Attorney General's recommendations. Do we have a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a second. Any discussion? Hearing no discussion, all the members in favor of accepting the Attorney General's recommendation on the Terrell County case please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any nays? Hearing no nays, so moved.

MR. WILLARD: Okay, I think you mentioned the Terrell County case. The second one was a Douglas County case.

MR. FERVIER: Right. I said Terrell County, didn't I?

MR. WILLARD: So both of those have been accepted by the board?

MR. FERVIER: No. You just did Terrell, right?

MR. WILLARD: No. I did Terrell and I did Douglas. I did them in sequential --

(Cross-talking)

MS. GHAZAL: And I moved them both.

MR. FERVIER: Yes. Yes, yes.

MR. WILLARD: Okay.

MS. GHAZAL: So Terrell and Douglas County.

MR. FERVIER: Sorry. Sorry about that.

MR. WILLARD: Thank you, Mr. Chair.

MR. FERVIER: And so we're going to move this around a little bit for the -- the respondents that had to come from far away.

The next case we'll hear is SEB2022-112, McIntosh County interference with performance of election duties. It's tab 22.

Is there a representative here from McIntosh County?

MR. EVANS: (off microphone)

MR. FERVIER: Can we ...

MR. EVANS: Mr. Chairman, can you hear me?

MR. FERVIER: Yes.

MR. EVANS: So Jake Evans on behalf of Mr. Garner and Mr. Garner Jr. And that is the -- who is the respondent in the case.

MR. FERVIER: Okay. Would the investigator please make the case.

MR. BRUNSON: This case involved a father and son, Tim Garner and Tim Garner, Jr., who allegedly disrupted tabulation at a polling site. Mr. Garner, Sr. was a candidate on the ballot for county commissioner, District 5 at-large, for McIntosh County.

On the night of May 24, 2022, he and his son, Tim Jr., came to the polling site at Darien Church of God in McIntosh County after 8:30 p.m. as the results of the election were being posted and the poll workers were preparing to leave. The Garners were upset that a county commissioner, David Stevens, was allowed to enter the location after the polls closed. One of the workers there, a Miss Gail, indicated that Commissioner Stevens was not on the ballot for that particular election.

According to witnesses, the Garners began to

knock on the doors and windows of the church. Once Mr. Garner entered, he began screaming and yelling and was very irate. According to the assistant poll manager, Garner Jr. used profanity and said the polling staff had lied and cheated. According to another poll worker, Mr. Garner approached election staff and ask why Dan[sic] Stevens was allowed to enter the polling location and that the election had been rigged.

According to Mr. Garner, Sr., when interviewed by investigator Blanchard, the staff was not working when he entered the building to talk with Mrs. Brimmer, one of the election workers there. Mr. Garner replied they were boxing stuff up, the tally sheet was on the floor. Garner, Sr. said his son told Allie Meekin(ph) that y'all are trying to f-word my dad out of this election.

Investigator Blanchard sought further clarification on whether the door was locked or not when the Garners arrived. And Mr. Garner confirmed that the door was locked when he first approached the building and was not unlocked until the results tapes were posted on the front door.

Investigator Blanchard spoke with Tim Garner, Jr. who recalled when he and his father arrived, a poll worker, Allie Meekin was posting the results tapes on the door. Mr. Garner and his father received word that Mr. Stevens was inside the building at that point -- or had been earlier.

So basically based on their actions, as far as Mr. Garner and Mr. Garner, Jr., we found that there was evidence to suggest that they violated O.C.G.A. 21-2-597, interference -- intentional interference with the performance of election duties and O.C.G.A. 21-2-569, interfering with poll officers.

Now, there was one poll worker there who claimed that they were still conducting election duties and then some of the other witnesses said that they were finished, they were packing up. But just based on their actions, that's what we're suggesting that this is a potential violation.

MR. FERVIER: Are there any -- the respondents?

MR. EVANS: Thank you, Mr. Chairman. I -- we appreciate -- on behalf of the Garners, we

appreciate the investigation staff. They've been very accommodative through this process.

There's a number of disputes of fact about what happened on this night. I'll will give a brief overview and then I'll kind of get to the law and what really matters for the board and the board's consideration.

What -- what happened was around 8:30 p.m. Mr. Garner, who ran a very highly contested race -- it was ultimately decided by 36 votes -- for county commission down in McIntosh County, got word that there was an individual that was in the voting precinct that was not supposed to be there. That individual was a supporter for his opponent and as a result he became very concerned.

As a result of his concern, he drives down, he knocks on the door -- he does not knock on the door in a violent way -- and he inquires with the staff about whether or not this individual was there, whether or not the individual was supposed to be there. And the conclusion was the individual was not supposed to be there and the individual earlier in the night had been exited and removed from the premises.

But what's important is that the statute that's alleged to be violated, which is 21-2-569, which says any person who willfully prevents any poll officer from performing duties imposed on him or her by this chapter.

So if we look at the findings here, now first this was at 8:30 p.m. All of the work had been done. The only remaining thing that was left to be done was actually taping the results, the tabulation, on the door which the poll worker had completed. I believe Mr. Garner, in fact, helped her complete taping that on the door.

The investigative report suggests that the violation, if there was any violation, was Mr. Garner delaying them from exiting the polling location. Now, notwithstanding any dispute of facts, because there is a lot of core disputes of facts about cussing and everything else, which I'll get to in a second, if we look at the statute as it's read, there was no action that was taken by Mr. Garner or Mr. Garner, Jr., who is his son. He was unable to make it today. He is a young professional, he's working. But nothing is suggested that they did violate any of the law. And that is affirmed by the

investigative findings which is before you all which says: After re -- after interviewing the polling staff, none claimed that the actions of the candidate nor his son hindered them from completing their election duties. That is virtually dispositive of the issue about whether we have a violation of the only statute that's alleged to have potentially been violated, which is 21-2-569.

Taking it further, there were multiple police reports that were filed. They were filed with Glynn County Sheriff's Office, they were filed with Camden County Sheriff's Office. By virtue of those, there was a robust amount of investigation that was done. And I believe the police report may be before you all as well, which talks about whether or not there was profanity used, whether the door was hit.

And the ultimate conclusion was the assault and disorderly conduct as alleged in this case were both unfounded. This case is closed.

So for Mr. Garner, I understand there's only been a letter of instruction that's been recommended. He takes this case very seriously. He drove up from McIntosh County today, showing

how seriously he takes the case. Looking at the law, even -- looking at the law, even notwithstanding the disputed facts, the law shows that -- this is 8:30 p.m. The law shows -- or the facts show there was no remaining duties to perform and the investigative report from the Secretary of State says: After interviewing the polling staff, none claimed that the actions of the candidate nor his son hindered them from completing their election duties.

And so as a result of that, there has been no violation. There was undoubtedly a contested election which there's actually a pending lawsuit in the Southern District of Georgia about which results in people filing claims that may not be meritful.

But we would respectfully submit to the board that looking at the law, applying the law to the facts shows that there was not a violation. And as a result the claim should be dismissed. So thank you guys for your consideration.

MR. FERVIER: Are there any questions from the board?

MR. LINDSEY: I somewhat disagree with you

because the duties of a poll worker doesn't end when the polls close, duty of the poll worker particularly. The poll manager ends when they drop everything off at the office where things are being tabulated. Having sat up late at night waiting for those to come in, I can attest to that.

And I realize it was a hotly contested race and folks in the heat of the moment. Particularly with a 36-vote difference, I can well understand.

Let me, if I may, be so bold to your client and ask your client something directly. If you had the situation come up again, would you have just gotten somebody else to go and see -- see rather than you? Given -- given the heat of the moment. Would've kept a lot of police reports back and forth done if somebody else had been monitoring rather than you.

MR. GARNER: If I had to do it again, I probably would. But all I went in and asked was why was David Stevens allowed to come in there? And I -- I -- that was the only question I asked. It wasn't like it was a -- and, you know, like I was cussing and -- I just wanted to know how

come -- and the poll watchers was removed at 7:00, if you've got it in front of you. They was removed at 7:00 and how come he was allowed to go in and the doors were locked and nobody else could? And that was all my question was. When they opened it up, I just walked in. I didn't, you know, force my way in. I just (indiscernible) and asked. When she said, Go see Miss Gail, I turned around and went to the election board.

MR. LINDSEY: If he -- if he'd been here, I'd have asked him the same thing, I assure you that, okay?

MR. GARNER: Yeah, but to answer your question, I probably would have.

MR. LINDSEY: And, you know, I'm not -- I'm not necessarily finding a violation here, but I do think that those -- I'm a former elected official, you're an elected official by 36 votes. I won by a slightly larger margin but not too much. You know, particularly elected officials, we need to be respectful of our poll workers. And sometimes we need to let other people do our fussing and so as not to -- and so as not to intimidate poll workers, particularly when

they've still got to get the numbers to the place.

And so I recognize your situation. I do think you could have handled the situation a little better. That's why I'm not doing a -- but I don't think that there is a clear violation, so I'm not going to do any kind of motion for a letter of reprimand anyway.

But I do think that a simple letter of instruction, saying, you know, let somebody else in the future. And if your opponent was here, I'd have told him the same thing. Maybe even -- I don't know if we have jurisdiction, but I'd like to tell him the same thing.

And for that reason, at the appropriate time, I'll simply do that with otherwise a dismissal but it's a bit of a letter of instruction.

MR. FERVIER: As was clarified to me earlier, during lunch, a letter of instruction is not found -- is not a found violation. It is simply a restatement of what the law says or what the rule says so that individuals will know in the future what that rule or law might be. It is not a violation found.

MS. GHAZAL: Mr. Chairman, I think this is a good opportunity to remind the counties that the tabulation process is -- and the closing of a poll is -- is rightly observed by poll watchers. And poll watchers must be allowed to observe that whole process. That is critical to make sure that we do have public trust in the process moving forward.

So counties must do that. And if that was not the case here, then I'm sorry and that was wrong and it should not have been. And counties moving forward will be accountable if they are not allowing poll watchers to observe every step of the process. That is just absolutely critical. It just wanted to put that on the record.

MR. FERVIER: Do we have a motion from the board on this issue?

MR. LINDSEY: So I'll move for a letter of recommendation.

MR. FERVIER: A letter of recommendation?

MS. GHAZAL: Instruction.

MR. LINDSEY: A letter of instruction. It's late, guys. It's -- letter of instruction. We've still got time to go. Letter of

instruction.

MR. FERVIER: We have a motion --

MS. GHAZAL: Second.

MR. FERVIER: -- from member Lindsey --

MR. LINDSEY: If I could --

MR. FERVIER: -- that we have a --

MR. LINDSEY: -- amend slightly because --

MR. FERVIER: Do we have a second?

MR. LINDSEY: Yeah.

DR. JOHNSTON: Second.

MR. FERVIER: Second from member Johnston. Any discussion? Hearing no discussion, all those in favor of issuing a letter of instruction signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any nays? Hearing no nays, the vote passes four to zero.

Member Jeffries is on the phone now.

MR. EVANS: Okay, thank you for each of you guys.

MR. FERVIER: I think that the next one we'll hear is Ben Hill County. Is there a respondent from Ben Hill County here? No? I'm going to try and hit the ones where the respondents are here. So I mean --

Walker County? Is the respondent from Walker County here?

MR. SNYDER: Yes.

MR. FERVIER: Are you ready?

MR. SNYDER: Yes.

MR. FERVIER: Okay. Next case we'll hear is SEB2023-041, Walker County, Chickamauga qualifying fee issue.

MS. KOTH: The Secretary of State's Office opened an investigation after receiving a complaint regarding improper qualifying fees being set in the city of Chickamauga during November 7, 2023, for the city council general election.

The complainant alleged the qualifying fee set by the city is more than the amount allowed by the statute, a potential violation of O.C.G.A. 21-2-131.

The findings are -- the code section stipulates that a qualifying fee shall be 3 percent of the total gross salary of the office paid in the preceding calendar year including all supplements authorized by law at the salaried office.

The point of contention is how all

supplements authorized by law should be defined and interpreted and what compensation and benefits should be included in the calculation of qualifying fees. The city of Chickamauga interpreted the law to include benefits offered the position, such as health insurance and retirement in addition to the base salary of the position.

The potential violations are -- that the city of Chickamauga levied improper qualifying fees remains undetermined pending review and interpretation of the election code by the board.

MR. FERVIER: Respondents, please.

MR. SNYDER: Thank you, Mr. Chairman and the board. And I'm Mitchell Snyder and I'm here with the mayor of the city of Chickamauga and the city manager. And we're -- we're glad to be heard on this matter and the question is -- as the investigator has -- has posed, it is correct.

I don't think there is a single factual dispute factual here with the facts. We can explain it, although I think in the investigator's report the way we calculated the qualifying fees is correct and accurate.

I believe that it's correct and accurate

under the law. It's been the same way since 2017 when my law firm issued an opinion to the city that they calculate with the phrase in the statute cited by the investigator, 21-2-131(a)(1)(a), "including all supplements authorized by law," includes any other benefits including supplements which is undefined in the election code as his salary.

And I think that what's notable here too is -- is that they both are undefined. And it is different when you go through that statute. The other -- the other election offices, for instance, the clerk of the superior court, the judge of the superior court, it is 3 percent of the minimum salary specified.

Similarly, in -- in election qualifying fees set by the Secretary of State, it's 3 percent of the annual salary of the office. The only positions -- the only qualifying fees that are set by the governing authority in this case of a municipality, it includes this extra phrase. And so when we're doing a statutory interpretation, we have to assume that there's some meaning for that extra phrase.

And the phrase, "including all supplements

authorized by law" would indicate that there has to be some additional amount authorized. So we look, what are municipalities allowed to pay their -- in this case -- city council members by law.

If we go back to the -- this is one of the Home Rule statutes. If we go to 36-35-4, subsection (a), it specifically says: The governing authority of each municipal corporation is authorized to fix the salary, compensation, and expenses of its municipal employees and the members of its municipal government authority and to provide insurance, retirement, and pension benefits. That is a supplement that is authorized by law under O.C.G.A. 36-35-4.

Additionally, in that section there is a definition of salary that is provided and it says, among other things: Any form of payment or reimbursement of expenses.

So I think the city does take this very seriously. We are asking for a dismissal of this. In these types of matters, the work you do is very important. It's also heard very loud and clear, especially in places when we go home.

If the city receives a letter of

instruction, that's interpreted a certain way. Here, the statute, I believe, was interpreted correctly. Certainly the city did this in 2017 and has uniformly applied the rules. This is not any particular candidate. This is not a particular party. This is not any particular way other than they honestly came to their legal counsel for an interpretation. That interpretation was given. I believe that interpretation was reasonable and is correct.

And I would ask if you would -- if -- if you're inclined, if we need clarification, then the legislature, the Secretary of State's Office, or the Attorney General's Office needs to give an opinion on that. But we -- this case should be dismissed. The city has -- the investigation -- the investigator said that it was undetermined whether there was a violation.

If it's that difficult that lawyers and investigators can't do it, the city of Chickamauga is doing a lot of good work and they have a lot to do with elections and outside of elections, and we would respectfully ask that this complaint be dismissed.

MR. FERVIER: Are there any questions from

the board? The chair will entertain a motion.

MS. GHAZAL: I -- I actually have one question. Do we know how this statute has been interpreted by other municipalities?

Investigator Koth, do you have any idea?

MS. KOTH: We do have another case similar to this.

MS. GHAZAL: Yeah. And -- and --

MR. WILLARD: (off microphone) Mr. Chairman, may I be recognized?

MR. FERVIER: Yes.

MR. WILLARD: (off microphone) There is no provision in Georgia law that I have heard of that I've been able to find that equates benefits with gross salary or salary compensation. In fact the code provision that respondent's attorney has said supports their position actually (indiscernible) because O.C.G.A. 36-35-4 dealing with compensation and benefits for employees and members of governing authority specifically splits out salary, compensation, and expenses of its municipal employees and then separately can provide insurance, retirement, and pension benefits. Benefits are not portions of salary, especially in regards to qualifying fees.

The only time a gross salary is used outside of Title 21 is in the retirement provision of the state code. And it is clear. And the Employees Retirement System and the Teachers Retirement System interpreted it this way: That salary and the compensation you are paid and your retirement benefits are determined by how much is permitted based on your salary, not your salary plus benefits.

This is not a case that's being referred over to our office for sanctions, but at a minimum a letter of instruction needs to come about because right now the city of Chickamauga is imposing an erroneous qualifying fee on candidates for its office.

MR. SNYDER: (off microphone) If I may --

MR. FERVIER: Yes.

MR. SNYDER: -- respond to that --

MR. FERVIER: Please.

MR. SNYDER: -- Mr. Chairman.

First of all, the key issue is the statute doesn't stop with salary. It also says including all supplements authorized by law. If the legislature had just wanted gross pay, they could've just said gross pay. They also could

have said they used salary, again, because certain positions -- not council members, certain positions do have salary supplements.

Here, the fact that there are include -- that the word "supplement" is used as a different word than salary, would lend itself to support the argument. There's no definition in the section. And, in fact, other municipalities close to Chickamauga charge similar fees. It's in the investigative report. Fort Oglethorpe which is in northwest Georgia with us charges very similar fees as we do. These are not abnormally high fees. These are fair.

And the statute is somewhat unclear, but our interpretation is fair and reasonable. And we respectfully request that no letter of instruction be issued. We will of course submit and do whatever you tell us to though.

DR. JOHNSTON: Mr. Chair --

MR. WILLARD: Mr. Chairman, may I be heard further on this point?

MR. FERVIER: Yes, you're recognized.

MR. WILLARD: (off microphone) The inclusion of supplement there is to clearly include the salary side as he referred to in determining

qualifying fees because a candidate for superior court judge in Cobb and in Fulton is paid at a different amount than a superior court judge in Walker County and down in McIntosh because of the salary supplement that are over and above what the statutorily set salary for that position is. And the General Assembly has made clear that for those salary supplements, they are to be factored into the 3 percent qualifying fee.

DR. JOHNSTON: Mr. Chair --

MR. WILLARD: This is the epitome of a case that needs a letter of instruction because they have admitted that they are uncertain about the application of the law. I don't believe that they should have been uncertain about the application of the law but it cries out for a letter of instruction so they do not continue to unfairly penalize candidates who qualify.

MR. LINDSEY: And if I --

MR. FERVIER: Member Johnston.

DR. JOHNSTON: Mr. Chair, three -- 3 percent is a modest amount, but I think the easy solution would be just take the W-2 of the incumbent's previous year salary as it states in the statute, a previous year's compensation. The --

whatever's on the W-2 is what that person is -- is benefiting from and so if -- if there are -- are very nice supplements that are attributed that -- that candidate who may become the elected official benefits from that amount of -- of compensation. So it would solve problems in most of these cases.

MR. FERVIER: Member Lindsey.

MR. LINDSEY: You know, directed to my counsel, I understand superior court judges get some -- I don't know what the supplement means for superior court. Maybe to -- this is maybe to both of y'all, but what kind of supplement would a city councilman get? Because the supplement for a superior court judge is -- is, you know, what the county has in -- in addition to what the state is paying.

But I -- I'm trying to figure out what is a supplement?

MR. SNYDER: (off microphone) Supplement would be -- is it some -- no municipality -- they -- by Home Rule they set what they're going to pay. A supp -- but what they don't -- what changes, some offer health insurance, some offer retirement benefits and some do not. That's the

supplement. It cannot be gross salary -- or it cannot be gross pay because they set that. That's the salary.

A supplement has to be something different because the legislature used a different word. And a supplement set by a municipality would be what is supplemented. Sometimes it includes health insurance, disability insurance, and retirement benefits. Sometimes it doesn't.

MR. FERVIER: I -- I can only speak from private industry but I know that there are supplements for phone allowances or supplements for gas allowances, for car allowances, for things like that.

DR. JOHNSTON: Or is it a stipend?

MR. FERVIER: Huh?

DR. JOHNSTON: Is that a stipend?

MR. FERVIER: No, they're called supplements.

MS. GHAZAL: Mr. Chairman, I would move for a letter of instruction to make sure that the counties understand. But I would also request that we get legal guidance from the Secretary of State's Office to very specifically define what should be included and not, whether employee

benefits are not included as opposed to supplements so that moving forward municipalities are not put in this position to have to interpret whether or not benefits, which are a legal category, are -- should be considered supplements which I believe is a separate legal category.

So a letter of instruction to the county and a request to the Secretary of State's Office for clarifica -- legal clarification.

MR. FERVIER: Okay, my only -- I'll bring that up.

We have a motion to issue a letter of instruction and a recommendation to the Attorney General's Office. Do we have a second?

MR. LINDSEY: Second.

MR. FERVIER: We have a motion and a second. Any discussion? I have some discussion. I think that there is an issue with the fact that there's some confusion on what exactly should be in this.

MS. GHAZAL: Right. Which is what the letter of instruction, which is not a -- is not a reprimand, is to instruct the -- the municipality, moving forward, how they need to behave.

And then a broader legal instruction from

the Secretary of State's Office so that other counties -- because only the municipality of Chickamauga will receive this letter of instruction, we want to make sure that every -- every municipality moving forward gets the same instructions through the Secretary of State's Office.

MR. FERVIER: How do we go about sending a letter of instruction if we don't know exactly what the outcome is going to be before the -- we get a ruling from the A.G.'s Office?

MS. GHAZAL: I'm going to defer to the A.G.'s Office who has pretty definitively stated that benefits are not supplements for purposes of this code section.

MR. FERVIER: Did you want to make a comment?

MR. SNYDER: (off microphone) That was the point that I was going to raise. I don't know what would be the instruct -- I mean, the investigation -- investigator determined that there was a violation, we certainly do not believe there is a violation. We would ask for the opinion --

And member Ghazal, I think that is correct,

the whole state needs to know and have this interpreted. But we shouldn't have a notice put on -- in our file, on our record when it is so unclear that the -- the investigators can't determine. And I think there is room for reasonable minds to interpret it the way the city did, and I would ask that it be dismissed.

MR. LINDSEY: Mr. Chairman, can we -- and -- and if I'm -- I'm not asking you to come back by what I'm asking. Can we just continue this, get a letter from the Attorney General as to their opinion, and then include that and then take this up at our July meeting and with the simple thing of doing that letter of instruction based on the interpretation from the Attorney General.

Mr. Attorney General -- Russ, you know --

MR. FERVIER: We continue this?

MR. LINDSEY: Is there a -- is there --

DR. JOHNSTON: Continue.

MR. LINDSEY: Is there some type of urgency that would hurt us from not sending the letter of instruction with the interpretation till -- till July? Is there anything --

MR. SNYDER: (shaking head)

MR. LINDSEY: And so for that reason, I'm --

you know, I'm not asking you guys to even have to come back. Particularly not pay your high priced counsel to come back, but to simply allow us to get something from the Attorney General that we can issue not just to you guys but to everybody else in the state. Maybe that's probably the best way --

MR. FERVIER: And I have to sign the letter of instruction. I'd like to know what I'm signing, so ...

MR. LINDSEY: For that --

MR. SNYDER: (off microphone) There's no reason that -- that that cannot wait. We don't have any elections (indiscernible) --

MR. LINDSEY: That's -- that's what I'm -- I'm thinking, is that let's get this right. Let's get an interpretation between you. It may even be just us issuing -- approving what -- the letter from the Attorney General and then move on from there so that all local -- all local municipalities need to know what to do at this point.

MR. FERVIER: Member Lindsey, are you withdrawing your original motion?

MS. GHAZAL: I am withdrawing my original

motion.

MR. FERVIER: Oh, I'm sorry --

MS. GHAZAL: Yes.

MR. FERVIER: -- member Ghazal.

MS. GHAZAL: Yes, I am.

MR. FERVIER: You're withdrawing it.

Member Lindsey, would you like to make a motion?

MR. LINDSEY: Just a motion to continue in order to get instruction from the Attorney General so that we can send it to interested municipalities throughout the state.

MR. FERVIER: We have a motion from member Lindsey to continue this to our next scheduled meeting. Do we have a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion and a second from member Johnston. All those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the ayes have it four to zero. Thank you.

MR. SNYDER: Thank you.

MR. FERVIER: I want to let you know

SEB2022-106, DeKalb County missing certification date has been continued also to the next meeting. If I remember my Georgia history right, Ben Hill County is pretty far from here too. Is there a respondent here from Ben Hill County? Then we'll wait on that one.

MR. WILLARD: Mr. Chairman?

MR. FERVIER: Yes.

MR. WILLARD: If I could suggest, given the declining population we have in here, it might be easier just to go and see if we have respondents here so we can capture anybody who's actually present.

MR. FERVIER: Sure. Washington County? Is there a respondent here from Washington County? Clayton County? All right. I'm just seeing who's here. We know Ben Hill is not. Bibb County? Yes. Cobb County?

MR. LINDSEY: Mr. Chairman, I believe that there's also an individual here on the Buckhead library interference. Is he still here? He was here.

MR. FERVIER: Fayette County? No. Fulton we know. Walker's been continued. And there's one more from Grady County under the "Recommended

for referral to the Attorney General's Office." I don't know if -- is Grady County here? Chatham County? No.

All right, we'll just move down the list then. The next item on the agenda is SEB2022-133, Washington County districting issue. It's tab 23.

MR. BRUNSON: Okay. Mr. Bart Sheldon Milam alleges that he was assigned to the incorrect precinct and when he went to vote on June 21, 2022, in Washington County, he did not see any of the candidates he expected to see on his ballot. Mr. Milam believed he should have been assigned to District 2 and he was repeatedly told his correct district is District 3. Mr. Milam alleges that he was not allowed to vote.

When Mr. Bart Sheldon Milam went to vote on June 21, twenty -- you know what, that's a repeat. Hold on.

Okay. Once he realized he was in the wrong district, he brought it to the attention of the poll worker's managers. After a disagreement over the matter and a telephone call to the Washington County election supervisor, Cathy Hagans, it was determined that Mr. Milam was

listed as being in the incorrect district. Mr.[sic] Hagans reports that before Mr. Milam could be offered the opportunity to vote a provisional ballot for the correct district, he threw his voter card at the poll worker and stormed out of the building.

Mrs. Hagans documented in a written statement that Mr. Milam used profanity towards her during the telephone conversation that she attempted to have with him when he left the polling precinct. Mrs. Hagan[sic] reports that she ended the phone call.

Mr. Milam told the investigator that he didn't receive a telephone call informing him he could vote a provisional ballot until he had already left Georgia for South Carolina.

He also alleges that another person was told they were in District 3 when they should've been listed in District 2 also. However he wouldn't provide any information for that person whom he only described as a female.

Regarding the telephone conversation between him and Mrs. Hagans, Mr. Milam described his own behavior as, quote/unquote, ugly and stated that Mrs. Hagans acted ugly as well.

So based on the incorrect designation for Mr. Milam, there is sufficient evidence to show that Cathy Hagans and the Washington County board of elections violated O.C.G.A. 21-2-226(b)(c), duties of the county board in determining the eligibility of voters. Subsection (b) states: The county board of registrars shall have the duty of determining and placing the elector in the proper congressional district.

And that's it.

MR. FERVIER: Was Washington County properly notified of this hearing today?

Alexandra, was Washington County properly notified of this hearing today? The respondents?

MS. HARDIN: (off microphone) They should've been (inaudible).

MR. FERVIER: Are there any questions from the board?

DR. JOHNSTON: No questions.

MR. FERVIER: Do you have a motion from the board?

MR. LINDSEY: So move to issue a letter of instruction.

MR. FERVIER: We have a motion from chairman Lindsey to issue a letter of instruction. Do we

have a second?

MS. GHAZAL: Second.

MR. FERVIER: We have a motion and a second. All members in favor of issuing a letter of instruction signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any nays? Hearing no nays, so moved by a vote of four to zero.

MS. HARDIN: (off microphone, indiscernible)

MR. FERVIER: Okay.

The next item on the agenda is SEB2022-136, Clayton County tabulation sheets. Is the respondent here from Clayton County? Thank you. That is tab 24.

MR. BRUNSON: So this is a continuation case. We heard most of the elements of the case from the previous meeting. That was back in February. There was a question as it related to the posting of the tapes, and so we had our investigator go back and follow up and try to obtain -- there were 18 tabulation tapes.

This originally started from a candidate who claims the tapes weren't posted as they were supposed to be at the end of the night. He was able to obtain 15 of 18 tabulation tapes. We

were not able to prove that the tapes were not posted, however, they weren't able to provide 3 of the 18 tapes.

And so based on our investigation, we determined that there was a potential violation of O.C.G.A. 21-2-73, preservation of primary and election records, which states all primary and election documents on file in the office of the election superintendent of each county, municipal governing authority, superintendent, registrar, committee of a political party or body or other officer shall be preserved therein for a period of at least 24 months and then the same may be destroyed unless otherwise provided by law.

MR. FERVIER: Respondents, please.

MR. REED: Good afternoon again, Chair and Board. Charles Reed from Clayton County. Just wanted to do -- we don't really have a disagreement with the facts there but I just want to provide additional context.

First, the -- this is really a matter of three closing tapes, not anything related to votes or whether it was calculated properly or anything like that. And I believe the initial issue was relating to a vote that took place in

the school and the candidate had stated that he was expecting to see the voted -- the tapes at the door at the entrance to the school as opposed to in the gym where the voting actually took place. And our typical practice is to not post it at the front door to the entrance to the school but at the location where the voting actually took place.

And so we normally present -- or print three tapes. One stays on the door and we bring two back to the main office. At the time, in May of 2022, director Dozier was out on maternity leave. And so we had a -- another person who was present, a Mr. Golden, who was handling the day-to-day responsibilities of the office.

Mr. Golden -- oh, well, now is an employee of the Secretary of State's Office. We reached out to him to find out whether he was aware of what happened with the two tapes that were supposed to be retained. He said he did not remember anything specific to -- to that.

Our normal practice when we get back is there's a checklist for all of -- documents that are going to be retained which basically start Tuesday evening. Three boxes are made, one that

goes to the Secretary of State's Office. Two, one is retained with the clerk's office and one is retained internally.

The checklist -- what we've been doing is once we fill out that checklist, we've been throwing the checklist away. Since this incident, we're now going to keep that checklist. So even if this -- for some reason, there isn't an ability to find that -- will at least show that as of the date that we started the retention, all these items have now been part of the retention records.

So again we're not contesting the facts that we're -- oh, I do want to add one other thing. We looked through when we were asked for these tapes -- we looked through our box for the Novem -- the May election, the June election, and I believe it was the November election as well. We looked through all those. We were unable to find those three. And unfortunately because the memory tapes have been written over, we weren't able to reproduce them when those was asked for just earlier this year.

So we would ask for a letter of instruction but just wanted to give the board additional

context as it relates to what we've done since this event.

MR. FERVIER: Are there any questions from the board? Yes.

MS. GHAZAL: I actually have more of a comment than a question. My apologies for that. But reading the investigation file, the line in this that frightened me the most was that -- it was during the L&A, the -- Mr. Golden discovered that you were short on supply of tabulation tape. And that is a management issue and that is a supply management issue that counties need to be planning for right now and make sure that nobody's running low on supplies. Because if you discover during L&A testing that you're low on supplies, you may not have time to get it.

So that is a best practices point that I want to make sure that not just Clayton County but all hundred and fifty-nine counties are making sure that they have what they need to fulfill their statutory and regulatory obligations by the end of every single election period. Because that's -- that is -- that's a really bad management practice and I know that you were -- you were out and you were not

responsible for that.

But you are responsible for this year along with all of your colleagues. So I just wanted to make that point.

MR. FERVIER: Thank you. Any other questions from the board?

DR. JOHNSTON: Thank you, Mr. Reed and Ms. Dozier. I really like the -- the checklist and retaining the checklist. So please do that.

And the other question is some of the tabulator tapes were put on the door, but they were not visible to the public, like the bottom end of the tape was below the window part of the door. So would you make sure that the poll managers are instructed that the whole tape needs to be visible when it's taped up on election night.

MS. DOZIER: Absolutely. And we'll go a little bit further. When we go out to deliver the equipment, we'll make sure that we identify where the tapes need to be located on the doors.

DR. JOHNSTON: Okay. A good supply of Scotch tape too.

MR. FERVIER: The chair will entertain a motion.

MS. GHAZAL: I move that we issue a letter of instruction to Clayton County.

MR. FERVIER: We have a motion to issue a letter of instruction. Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: There's a second. There's a motion to issue a letter of instruction in SEB2022-136, Clayton County. All those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, so moved. Thank you.

The next item on the case -- or next case to be heard is SEB2022-23[sic], Ben Hill County voter using a business address to register to vote, tab 25.

MS. KOTH: The Ben Hill County election supervisor, Cindi Dunlap, filed a complaint about a voter named Kelly Dossey. She reported Kelly registered to vote in Ben Hill County using his employer's business address as his residential address.

The investigation revealed that on August 23, 2022, Kelly submitted a voter registration through DDS using his employer's

business address of 734 Benjamin Hill in Fitzgerald, Georgia as his residence address. Mr. Dossey stated he was going to move to Fitzgerald, Georgia because of his work and so his son could play football there.

He stated that when he submitted the voter registration, he did not know he could not use his work address. He advised he received a call from Ben Hill County election supervisor Dunlap, and he informed her that he did not -- he decided not to relocate to Ben Hill County. Mr. Dossey stated he was told to come in and fill out a form to have his name removed from the voter registration rolls which he did.

Potential violations: There's evidence to suggest that Kelly Dossey violated O.C.G.A. 21-2-561(3), false registration.

That's it.

MR. FERVIER: Would you like to comment on whether you view this as an act of fraud, potential fraud or not?

MS. KOTH: Did we view it that way?

MR. FERVIER: Yes. From the investigation standpoint?

MS. KOTH: No.

MR. FERVIER: Using a business address to register?

MS. KOTH: No. I think he didn't -- he thought he could do it and he couldn't and he changed it.

MR. FERVIER: Okay. The board have any other questions?

MS. GHAZAL: Mr. Dossey's not here; correct?

MR. FERVIER: Correct.

MS. GHAZAL: I move we issue a letter of instruction to Mr. Dossey.

MR. LINDSEY: Second.

MR. FERVIER: We have a motion and a second to issue a letter of instruction on case SEB2022-238. All those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, so moved by a vote of four to zero.

Next item on the agenda is SEB2022-318, Bibb County child not allowed in the voting booth with their parents. Tab 26.

MR. BRUNSON: Okay. So the complainant, Jessica Sargent, reports that when she went to vote at the Bibb County Lake Wildwood precinct on

November 8, 2022, her four-year-old son was not allowed in the booth with her.

Mrs. Sargent states a poll worker instructed her that her son had to sit at a table while she voted. She advises thankfully a booth opened near the table the poll worker had her son sit at. Mrs. Sargent states she feels this was a violation of the rights of parents and their children during the voting process and it should not happen again.

This is a potential violation of 21-2-413(f), conduct of voters, campaigners, and others at polling places generally.

So after an investigation was conducted, our investigator spoke with the poll worker, Mr. Robert Holzendorf. And he advised on election day that he instructed the voters which voting booth to use. He said that if a voter came in with a child that he instructed the voter their child could not accompany them to the booth when they voted. He advised them that there was a designated area for children to sit at while their parents were voting, and he claims that he learned this from some training he attended.

Now, the investigator spoke with the poll

manager, Joyce Humphrey; spoke with an election supervisor, Thomas Gillon; and also another poll work there, James Vandiver. And they all correctly knew that children are allowed as the law states.

So based on this investigation, there is evidence to suggest that Macon-Bibb County board of elections specifically and Mr. Holzendorf violated O.C.G.A. 21-2-413(f), conduct of voters, campaigners, and others at polling places generally, and that they did not permit the voter to take her four-year-old son to the voting compartment when she voted.

MR. FERVIER: Respondent.

MR. NOLAND: Got it, thank you. William Noland again for the respondents, on behalf of the Macon-Bibb County board of elections. This happened. This poll worker, Mr. Holzendorf, was mistaken. All of the others in the precinct knew this.

It was addressed in training and specifically with -- with him. And it was -- it was a mistake and he was wrong and the voter is right that that shouldn't have happened as we've endeavored to make sure that it does not happen

again.

And we understand and accept a letter of instruction if that's the board's decision.

MR. FERVIER: Thank you.

Are there any questions from the board? The chair will entertain a motion.

DR. JOHNSTON: I move to -- to dismiss.

MR. FERVIER: We have a motion to dismiss. Do we have a second?

MR. LINDSEY: Second.

MR. FERVIER: We have a motion to dismiss and a second. Any discussion?

MS. GHAZAL: I want to say that I think that's a little bit -- this is not just a regulation but this is statute that was violated. So I think that at a minimum a letter of instruction is -- is called for.

MR. FERVIER: We have a motion that we need to vote on. We have a motion to dismiss and a second motion to dismiss. We'll hear that motion. All those in favor --

MR. LINDSEY: (off microphone) Can we have a discussion for a minute, Mr. Chairman?

MR. FERVIER: I'm sorry, yes.

MR. LINDSEY: I -- I think she's right. And

so for that reason even though I seconded that, I have to vote no. I think a letter of instruction is probably a little bit more appropriate given the fact that, you know, we want to encourage teaching children about voting and quite frankly it's in the statute.

So I think a letter of instruction -- doesn't necessary find a violation but just sort of let it -- make sure that all the counties know, make sure that they have this -- that -- that -- that they honor that law and that they do -- are welcoming to parents with children. So for that reason, I'm going to not vote for the motion I just seconded.

MR. FERVIER: Do you want to withdraw your second?

MR. LINDSEY: That or -- one way or the other but you don't --

DR. JOHNSTON: Take it back.

MR. LINDSEY: Yeah, I'll take back my second and let's go with a motion -- I'll make a countermotion now, motion for a letter of instruction.

MR. FERVIER: I'll have to get out my book here in a minute.

Would you like to withdraw your motion?

DR. JOHNSTON: I'll -- I'll withdraw my motion.

MR. FERVIER: Member Johnston has withdrawn her motion. We have a -- the chair would entertain a new motion.

MR. LINDSEY: Motion for a letter of instruction -- a letter of instruction, Mr. Chairman.

MR. FERVIER: We have a motion from member Lindsey for a letter of instruction. Do we have a second?

MS. GHAZAL: Second.

MR. FERVIER: We have a second from member Ghazal. Any discussion on it? Hearing no discussion, all those in favor of issuing a letter of instruction please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any dissents? Hearing no dissents, the motion passes four to zero. Issue a letter of instruction on SEB2022-318.

I'm going to go out of order again for a minute. We have a request to move up the case because the respondent will not be able to be

here tomorrow.

So we're going to call SEB2022-137, Fulton County campaigning within a hundred fifty feet. It'll be tab 38.

MS. KOTH: On 6/23/2022, a complaint was submitted to the Secretary of State's Office regarding a candidate in violation of O.C.G.A. 21-2-414. The complainant advised Jake Evans wore a shirt that displayed "Jake Evans, U.S. Congress," in a voting precinct. The complainant saw this televised on Fox 5 News on Tuesday 6/21/22.

The investigator viewed the video and confirmed Jake Evans went to the East Roswell branch library voting precinct in a shirt that displayed the words: Jake Evans, U.S. Congress. The investigator took a screen shot of Jake Evans in the video. The video clip showed Jacob Evans with his wife casting his vote at the East Roswell branch library voting precinct.

The investigator made a minimum of six calls to Jake Evans and some of those calls that she was able to leave a voice mail message. The investigator went to his house and his wife answered the door and asked why the investigator

was at their house. The investigator explained why she was there and his wife advised that she would let Jake Evans know the investigator stopped by.

Since the last meeting, the investigator made two more attempts to contact Mr. Evans by phone. The allegation that Jacob Evans was in violation of O.C.G.A. 21-2-414 was substantiated.

MR. FERVIER: Respondent, please.

MR. EVANS: Yeah, absolutely. Jake Evans, pleasure to be here before you guys. Let me -- first I want to say I appreciate your work. I chaired that -- this commission for three years. You guys are true public servants. It's a thankless job. I saw earlier the comments and I remember taking those.

Second, you know, I fought for election integrity about as hard as anyone in our state as an election lawyer, something that's very dear and close to me.

As far as the allegations, I will say I honestly cannot recall. And I believe these are about the runoff in 2022. It was probably one the most stressful periods of my life. I was in a daze at that point in time. I can't recall if

I went in, voted with a campaign shirt, didn't vote with a campaign shirt. I do know there was no possibility of me ever doing anything like that intentionally.

To the extent that I did do it, you know, I -- I apologize to each of you guys because what you do and also election integrity in Georgia is something very important to me. It's something that I fight for.

And as far as the responsiveness, I apologize for those inconveniences. I -- I changed jobs in 2023. We moved houses. I do recall my wife did say someone came by the house. Outside of that, I didn't hear anything for probably a year, a year and a half. I did hear before the last hearing that my case may be noticed up. I believe it was sent to the old address and so as a result I immediately requested a continuance and then I've made multiple outreaches to the investigators. And I eventually did talk to the investigator multiple times in the past couple weeks. And so I apologize for that inconvenience.

But, you know, in short I say in no way was this a knowing violation to the exhibit it

happened. I honestly do not recall. I do know that there was multiple interviews done. I do not recall anyone videotaping me while I was voting with a Jake Evans shirt on. I don't think that happened, but I'm not entirely certain.

To the extent it did happen, I was a first-time candidate in a daze, in a blitz of a final two weeks of a campaign. And I know board member Lindsey's ran campaigns, and at that point, you're just getting up every day, putting on whatever you can do and get out and touch as many voters as you can.

So I ask for you guys's sympathy. I ask that you accept my apology, dismiss the case, and issue a letter of instruction given the circumstances. And I appreciate the opportunity to appear before you all.

MR. FERVIER: Any questions from the board? Member Lindsey.

MR. LINDSEY: Mr. Evans, damn good election attorney. Knows better. But he's in the middle of an election. People make mistakes. Can I have your absolute guarantee that that -- this will never happen again?

MR. EVANS: You can, on the record, assuming

I run again. But outside of that, you can.

MR. LINDSEY: Assuming that you -- that you go against your wife's wishes and run again -- and I don't mean to make light of it, you're not supposed to do this and you know that and I know that, but mistakes do happen. We just finished with another man who probably let the moment get away from him as well.

But with that assurance from you that it -- that it will not happen again -- and I do particularly appreciate the apology that you've made to our investigators because we could've wrapped this up a lot quicker if you -- if we -- if you'd talk to them sooner.

I'm going to make a motion at the proper time, Mr. Chairman, to simply issue a letter of instruction and let's move on to other matters.

MS. GHAZAL: With due -- with due respect, we've -- I have been on the board long enough that I've heard several other cases with candidates not going inside polling places but simply standing outside polling places with their campaign shirts. In every -- consistently every single one of those, we have referred over to the Attorney General's Office.

I believe that we have in the case of at least two people that -- that I -- that the representative from House District 61 and a former representative from Brookhaven, both of whom were referred to the Attorney General's Office and both paid fines and the Attorney General reports were approved and disposed of by this body.

MR. LINDSEY: I'm not aware of that. I'm not aware of that.

MS. BRUMBAUGH: (off microphone) If I could be heard just for a minute.

MS. GHAZAL: Yes.

MS. BRUMBAUGH: (off microphone) Fulton County is also a respondent in this case. I'm a little bit confused about the report because as I heard the report, there was a stream -- there was television video of Mr. Evans voting with his T-shirt on which there shouldn't be any video of that because that's also against the law.

So I'm going to assume that that is not accurate and that Mr. Evans -- the video shows Mr. Evans outside of the East Roswell library in his T-shirt. And that is where I think that Fulton County can offer some information which

hopefully gets this case dismissed for both Mr. Evans and Fulton County. And that is that we have a statement from the poll worker who said that yes -- and we didn't know it was Mr. Evans until this morning, but, yes, there was a candidate who appeared at the East Roswell library. He was wearing his T-shirt. He was outside. The poll watcher came up to him, said: I'm sorry, sir, you can't wear your T-shirt. That's against the law. And the candidate zipped up his jacket.

So according to that evidence, Mr. Evans was -- did comply once he was given the information and also Fulton County did what it could do to prevent this from happening. So I would ask that the case be dismissed as to both respondents.

MR. FERVIER: We appreciate that information.

MS. GHAZAL: Investigator Koth, did you have something else?

MS. KOTH: Yes. The photos, the stills of that doesn't show that. He's not wearing a jacket and he's voting at the booth.

MS. BRUMBAUGH: (off microphone) But how

could that be (inaudible)?

MS. GHAZAL: Media can be given -- given permission by the -- by the county or by the poll manager to film.

MS. KOTH: Do you want to see pictures?

MR. FERVIER: May I see it?

The pictures actually -- Jake Evans wearing a button-down shirt with a sticker on -- a Jake Evan's sticker on his chest right here. It's not a T-shirt. Do you want to see this?

MR. LINDSEY: (off microphone) I see it. I'm going to stay with my motion, Mr. Chairman. And quite frankly, you can call me out the next time because if -- I don't -- I can't recall ever simply having somebody show up with a T-shirt, being told to leave, and they -- and they -- and going as far as issuing a link to an Attorney General for further action. And --

MR. FERVIER: There's been a --

MR. LINDSEY: If -- if we ever did find it, then I'll write a letter of apology to that candidate because I do think that's a little extreme because we need to send matters to the Attorney General that have a lot more gravity than this.

Now mind you -- partic -- now, if it's a repeated situation or if they bring in a lot of people and they start disturbing the polling place, I can see that. But simply this sort of situation, I think, for a first offense calls for a letter of -- whatever (inaudible) call it --

MR. FERVIER: Letter of instruction.

MR. LINDSEY: Letter of instruction. And so I would renew my motion at this point.

DR. JOHNSTON: Mr. Chair, I --

MR. FERVIER: Member Johnston.

DR. JOHNSTON: I reviewed -- I was looking at a past meeting and there was the exact same scenario and a letter of instruction was issued. The candidate was not sent to the Attorney General and it was either December or the meeting before, last -- last year.

Also I would recommend dismissal of this case, secondary to improper action of the State Election Board during the investigation. So I would make a motion to dismiss this case.

MR. LINDSEY: I mean, what -- what improper action are you referring to?

DR. JOHNSTON: The -- well, the action is that someone from -- someone contacted the

newspaper media and tipped off that this case was going to be presented before the case was actually presented.

MR. LINDSEY: How do you know --

DR. JOHNSTON: And officially it's under investigation until it's presented here.

MR. LINDSEY: (off microphone) I agree with you. How do you know it wasn't -- excuse me -- someone -- I'm not accusing Fulton County. It could've been the complainant who obviously cared enough about this matter to bring a complaint. How do you know it wasn't someone from there versus here? And I will tell you right now that you're casting aspersions upon your fellow members for that (inaudible). I'm a little disappointed to hear.

There's several other entities that could very easily have reported that to the press. And I think, quite frankly, more likely to have reported it to the press than members of this board.

MR. FERVIER: We're going to rule on the motion. We have an original motion to offer a letter of instruction. We had an alternate motion to dismiss the case.

The original motion will be heard first since it was made first. The original motion is to offer a letter of instruction.

MR. LINDSEY: Letter of instruction.

MR. FERVIER: A letter of instruction, yes. Do we have a second on offering a letter of instruction?

DR. JOHNSTON: Second.

MR. FERVIER: Second from -- member Johnston has seconded. Any discussion? Hearing no discussion, all those in favor of offering a letter of instruction on SEB2022-137, campaign within a hundred feet -- hundred and fifty feet signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any nays? Hearing no nays, the motion passes four to zero.

MS. GHAZAL: Nay. Three one.

MR. FERVIER: Oh, I'm sorry, I didn't hear it. I'm sorry.

MS. GHAZAL: Okay.

MR. FERVIER: Motion passes three to one.

MR. EVANS: All right, thank you very much.

MR. FERVIER: Thank you.

We'll get back on the agenda. The next item

on the agenda is SEB2022-327, Cobb County early voting tabulation issue. It's tab 27.

MR. BRUNSON: Okay. So this case was heard in the previous SEB meeting. And this case dealt with memory cards that were removed by Cobb County based on capacity issues. One was at 8149, another was at 6807. We looked at that and based on the removal of those items, there is a specific State Election Board rule that prohibits that. However, there was a memo sent out by the Georgia Secretary of State's Office basically saying that once they get near the 10,000 number, then there's two ways to handle it: remove it or deploy additional scanners to the advance voting precincts. Cobb County acknowledged that there were not enough scanners to deploy to the advance voting precincts, so they implemented the first option.

During that investigation, in looking at how they categorized what they did on the recap sheets, therein is where the violation of additional State Election Board rules came in.

So during the follow-up investigation, we determined there was sufficient evidence to prove that State Election Board Rule 183-1-14-.02(9)

and 183-1-14-.02(10) were violated in the following manner. At the close of voting each day during the advance voting period, the registrar shall document the election counter numbers from the ballot scanner on the daily recaps and, (10), after turning on the ballot scanners, the registrar shall verify the election counter number with the number recorded on the daily recap sheet from the previous day of advance voting.

And so because they removed that, one of the poll managers did not start the recap over at zero on October 29, 2022, because the poll workers thought they needed to continue adding the numbers together to show the total number of votes cast on that particular scanner.

Therefore the election counter number was not correctly noted on the daily recap sheet at the close of voting each day nor for the previous day of advance voting from October 29, 2022, until November 1, 2022, when they caught it and they reconciled everything at that point.

So that -- that's it for that case.

MR. FERVIER: For the respondent?

MS. FALL: Good afternoon, almost good

evening. Thank you for having us here and hearing this. This is one of three cases for me today.

Although you will note that this did occur under my predecessor's tenure, I feel comfortable enough with the case to discuss. I was not aware of the addition of subsection 10 because that's not listed in the summary of investigation I was provided. So I wasn't aware of that, however, I don't dispute that. That was a human error.

I discussed with the investigators that is the first time that had happened for us. And so the satellite site manager was just a little confused about what to do. So we've corrected that for the future. However, I do ask that the subsection 9 be recommended to be dismissed.

As mentioned by the investigator, we did receive guidance from the Secretary of State's Office to not allow our scanners to approach 10,000 because we would get an error message that would read "maximum ballot capacity reached." So that guidance was sent from CES on 10/26 and I believe the date that we swapped out the memory cards was 10/28. I don't know if you have that, but that's what I have written down. We did not

close the polls. We did not do any tabulation. We simply followed the exact option 2 that was provided in the memo from CES to ensure that we did not approach 10,000. That is one of our busiest sites and they were concerned that it would.

In addition to that, we received a secondary memo for the runoff, saying that based on experience in a general election, we recommend not letting the ICP collect more than 8,000 ballots cast. So that number has been -- now been decreased. If the board does not feel in a place to recommend for that section to be dismissed, I think myself, the other large counties would appreciate clear guidance of what we should do as we are receiving conflicting information and the limitations of the machines. Thank you.

MR. FERVIER: Thank you. This case has bothered me from the very start. And I feel like clear guidance hasn't been provided to the counties as what to do in this case and it's obviously an issue for the larger counties that have a significant amount of voters. And we really need to provide some guidance from either

the SEB or the Secretary of State on what to do in those circumstances. I've had some issues with this one from the very start, frankly.

Any questions from the board?

MS. GHAZAL: Mr. Chairman, if I may. When this case was first presented, I had said we need to rewrite the rule.

So I would ask that you work with us because we will hold a new meeting -- another meeting in July that we'll -- we'll be looking at rules and that rule clearly is -- is out of date according to the usage. So I would -- if we can have your help doing that and whatever -- the more you can put on paper, the more likely we are to actually have it right and get it right.

MS. FALL: Absolutely. I'll work with my fellow metro directors that are a little bit more tenured than me to make sure that we get you guys what you need to get that fixed. So thank you. I appreciate that.

MR. FERVIER: Any questions from the board?

DR. JOHNSTON: So the statute's clear that the memory cards should not be removed until -- until the close of polls. So you -- you do need better instruction. Do you have enough scanners

to bring a new scanner into one of the early voting sites?

MS. FALL: We did not at the time. And so based on the memo that was provided by CES, that was their Option 1, their Recommendation 1. But then Option 2 is if you do not have additional ICP devices to deploy, follow these steps. And that's what we followed. So unfortunately we did not have additional ICPs.

DR. JOHNSTON: Right. Which is counter to what the code says. So do you have enough scanners now?

MS. FALL: I would have to check. I know right now we have to deploy two scanners to all of our AIP sites due to having to split our precincts. So I -- I would not be surprised if we only have a few spares.

MR. LINDSEY: Mr. Chairman, if I may.

MR. FERVIER: Yes.

MR. LINDSEY: Given some of the things that were said in opening comments today, I think given the fact that this is a matter involving the Cobb election board, I think this is an appropriate time for me to -- to say something about conflicts of interest and my involvement on

the board.

And I -- and I had hoped that this -- this case might come up when more of the people that were concerned about this were here, but I respect that. Issues of conflict of interest is not an issue that I take lightly, either as a lawyer or as a member of the State Election Board.

And when I was asked to join the board by the speaker David Ralston and by the Georgia House, I looked carefully at this issue, particularly given the fact that my firm does represent the Cobb County commission and the DeKalb County commission. We do not represent the Cobb County election board. We do not represent the DeKalb County election board.

I reviewed the law regarding county election boards' creation. They are creations of the state. They're not creations by the county governments. I also consulted with -- with experts and individuals who run the county election boards throughout the state.

I also consulted with other experts on elections to determine where should I draw the line between what I could and could not get

involved in. And the final result -- and I've done this for the last two and a half years -- if -- if it involves not just, for instance, Cobb and DeKalb County election boards but also election officials or any officials outside of those two respective boards of county officials, I -- I recuse myself. I've done that in the past and I'll continue to do that in the future.

I did that, for instance, in March where there was a matter involving the Cobb County election board but also a matter involving the Cobb County commission. I also indicated there's a matter now pending involving DeKalb County which also involves the action of DeKalb County commission.

I have also taken that same position on a couple matters in the past, I believe in my first year here. I have also on rare occasions where my firm may have a representation of someone directly before this board, I have recused myself, I think, maybe out -- I don't know, several hundred -- seven or eight hundred maybe cases, I think I've recused myself seven or eight times during that period of time.

So I believe that I have throughout my

tenure upheld the honor of this board and have tried to make sure that if I get involved in a matter, it does not involve something that -- that a client is involved in. I have taken position that the Cobb County election board as a creation of the state, I can, if the Cobb County commission and other aspects of Cobb County are not involved, get involved. Same thing with DeKalb.

If I did have a conflict, I think some of my clients may be upset with me because on many occasions I have either recommended things to the Attorney General or letters of reprimand or other sanctions all the time. And for that, I want to make sure that that's stated on the record.

Like I said, I would've loved for this matter to have come up when the folks who were concerned about this were here, but I know that this is out there in the neverlands on the Internet. So perhaps they can hear it.

And I hope that resolves this matter and let's folks know where I stand in terms of the ethics -- ethical issues involved in these cases in the future. And I will -- I will continue to try to do so in an honorable manner before this

board into the future.

For that matter, I will be involved in this case. But I didn't want to -- I did think it needed to be stated on the record.

Thank you, Mr. Chairman.

MR. FERVIER: Thank you, member Lindsey.

Any other questions from the board in this case? The board will entertain a motion -- I mean the chair will entertain a motion.

MS. GHAZAL: I move that we issue a letter of instruction based on a potential violation of rule 183-1-14.02(10).

MR. FERVIER: We have a motion to issue a letter of instruction. Is there a second? It is seconded by member Jeffries. It was seconded by member Jeffries. We have a motion and a second to issue a letter of instruction.

MR. WILLARD: Mr. Chairman?

MR. FERVIER: Yes.

MR. WILLARD: (off microphone) Yes, we would clarify with unanimous consent it's actually 183-1-14-.02 subparagraph 10. There's a dash before the .02. It's just a naming convention --

MS. GHAZAL: Yes.

MR. WILLARD: -- used in Georgia rules and

regulations.

MR. FERVIER: With unanimous consent we will make that change to the motion; correct? So we have a motion and a second to issue a letter of instruction. Any discussion? Hearing no discussion, all those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: The ayes have it, four to zero. The motion is moved.

We have a hard stop at 5:00 today and there's no way we're going to get through the rest of this list. Are there any respondents that are unable to attend tomorrow? Cobb County? Because we -- I think we can hear maybe two more cases today if you are unable to -- yes.

MS. FALL: Cobb County is happy to move forward with a letter of instruction for our other two cases. And we don't necessarily feel the need to be heard. We accept what the findings brought for our end.

MR. FERVIER: We'll do those in a second. Is there anybody else? Any other respondents who are unable to attend tomorrow?

MR. LINDSEY: There was an individual from

Fulton County.

MR. FERVIER: Pardon me?

MR. SIBLEY: (off microphone) I'm -- I could do mine in four minutes.

MR. FERVIER: Okay. And which case is that?

MR. SIBLEY: 370.

MR. LINDSEY: I tried to bring you up earlier.

MR. SIBLEY: Do what?

MR. LINDSEY: I said I tried to bring you up earlier.

MS. BRUMBAUGH: (off microphone) Not to interrupt. There are two additional Fulton cases. I will be able to attend tomorrow. Ms. Williams and (indiscernible) will not. I don't think it'll -- they are necessary, but just to let you know.

MR. FERVIER: Okay. You -- you will be able to attend?

MS. BRUMBAUGH: (off microphone) I can come tomorrow, yes.

MR. FERVIER: Okay. We'll hear 370 in a minute. We'll hear Cobb County. Is there anybody else that won't be able to be here tomorrow? Okay. Let's -- let's go with the two

Cobb County cases. SEB2022-340 Cobb County, voter privacy issue.

Does the board need to hear from the investigator on that case?

DR. JOHNSTON: What's his number?

MR. FERVIER: I'm coming to you in a second.

DR. JOHNSTON: Oh. Just -- (conferring with respondent).

MR. FERVIER: Okay. The -- SEB2022-340, Cobb County, voter privacy issue. Does the board need to hear the investigator's findings on that case?

DR. JOHNSTON: No. Just some questions.

MR. FERVIER: Do we have a -- do you have a question?

DR. JOHNSTON: Just a question.

MR. FERVIER: Yes.

DR. JOHNSTON: Is there a corrected diagram?

MS. FALL: So I don't have a diagram but we did place a -- one of the privacy films on -- on the one that's off to the side, and the other station we've just closed. So we're not utilizing that at all. So the situation has been rectified. Don't have a diagram with me. I should've taken a picture of it --

DR. JOHNSTON: That's all right.

MS. FALL: -- but there were voters.

DR. JOHNSTON: But it's corrected?

MS. FALL: Yes, ma'am.

DR. JOHNSTON: And have you checked all of your other voting locations?

MS. FALL: Yes, ma'am. I think the -- the privacy issue with the ICXs is kind of an ongoing target. But these specifically, you definitely could see how an individual was voting just by standing in our lobby, looking into the doorway of our END room. So definitely agree and have rectified it.

DR. JOHNSTON: Right, okay. I -- I visited two locations, not in Cobb County, but two locations in November, and I could watch somebody vote all day long. And when I voted earlier this week, the same thing, there were four BMDs flat in front of the poll workers and -- and the handicapped BMD was not three feet from --

MS. FALL: Yeah. Yeah. It's -- we try to fit as many machines in there as we can.

DR. JOHNSTON: Right.

MS. FALL: And sometimes the space doesn't allow.

DR. JOHNSTON: Right.

MS. FALL: And since the larger counties utilize the carriers, it really limits our ability to --

DR. JOHNSTON: Right.

MS. FALL: -- to work on that. The privacy screens do help a lot. They come at a pretty -- pretty penny, but we're trying to invest in those and some of those specific concerns that have been brought to our attention.

DR. JOHNSTON: Right. So angling -- one -- one place I visited earlier this week, they angled it just beautifully. And I heard DeKalb County also has privacy screens.

MS. FALL: Yeah. That's who we got that one from.

DR. JOHNSTON: Thank you very much.

MS. FALL: Thank you.

MR. FERVIER: The board will entertain a motion on SEB2022-340.

MR. LINDSEY: Move for a letter of instruction.

MR. FERVIER: We have a motion to issue a letter of instruction. Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a second. Any discussion? Hearing no discussion, all those in favor of issuing a letter of instruction on SEB2022-340 signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, so moved, four to zero.

The next case we'll hear and the last Cobb County case is SEB2024-016. Does the board need to hear the investigative report on that case? It's the last one, tab 34. Do you want to hear the investigator's report?

DR. JOHNSTON: Oh. No.

MR. FERVIER: No.

MR. LINDSEY: No.

MR. FERVIER: The board will entertain a motion on SEB2024-016. Do you have a motion?

MR. LINDSEY: Second.

MR. FERVIER: No, we need a motion.

MR. LINDSEY: I thought she motioned it. A letter of instruction.

MR. FERVIER: We have a motion from member Lindsey to issue a letter of instruction. Do we have a second?

MS. GHAZAL: Second.

MR. FERVIER: We have a -- we have a motion and a second to issue a letter of instruction in SEB2024-016, Cobb County, improper issuance of ABM. Any discussion? Hearing no discussion, all those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, it's moved four to zero. Thank you.

The next case we'll hear is SEB 2022-370, Fulton County, Buckhead library interference by poll watcher. Does the board need to hear the investigator's notes on that case? It is tab 31.

MR. LINDSEY: No, but I --

MR. FERVIER: We'll allow the respon --

MR. COAN: Hit your button.

MR. FERVIER: Push your button.

MR. COAN: Push the button on the desk. You're good.

MR. FERVIER: Okay. Just -- just want to --

MR. SIBLEY: (off microphone) Yeah, I --

MR. FERVIER: Wait just one moment, please. Does the board need to hear the investigator's notes on that case?

MR. LINDSEY: No. It's pretty straightforward.

MR. FERVIER: Member Ghazal?

MS. GHAZAL: No, I'm good.

MR. FERVIER: Member Johnston?

DR. JOHNSTON: No.

MR. FERVIER: No. The respondent?

MR. SIBLEY: That's me.

MR. FERVIER: Yes.

MR. SIBLEY: My name is Mike Sibley. I was a poll watcher back -- and I've done it multiple times. In 2022 I was at the Buckhead library. What Mr. Lindsey asked the man back here if you had it to do over again, would you change anything? My answer is absolutely not. I did everything by the book and all of a sudden, I got kicked out. I got kicked out and I'm being investigated.

But you know what Paul Harvey says about now here comes the rest of the story? Said respondent interfered with the conduct of an election when he failed to follow the instructions of the poll official, causing an election worker to have abandoned their workstation -- his workstation during active voting. And the answer is yes, I did.

So if you go to the -- to the poll workers

manual, there's two -- a hundred and five pages, and nowhere -- and I've read this twice, nowhere did I ever find anything that said that a poll manager can tell a poll worker where to sit.

But if you go to the poll watchers instructions from 2022, it says a poll manager may show you a place to sit. You don't have to sit there all day. You can be anywhere in the poll as long as you do not interfere with voting.

So he came in at the behest of the manager, the poll manager. And so when she said he had to leave his workstation, it's true, but whose fault was that? I was following the rules. She didn't. And it all started from there.

Even -- this is the newest -- this is the newest poll watchers frequently asked questions. And one of the questions is do I have to sit in the area where the poll manager has set up a chair for me? No. Official poll watchers may enter the enclosed space. You could observe an election as long as you do not interfere or violate a voters right of privacy.

So I had -- I made a little map for you of the Buckhead library. When I first went in, I gave my credentials to the lady. She took them,

made a copy. The DRE is here, the second room. And I went to the third room where the drop box is. And I wanted to be in there virtually by myself. She sent the -- the poll worker in and said: Chairs are prohibited in this room. I said: Prohibited? What for? Well, we don't want you to sit in here to watch the -- the drop box. So I followed her out.

Oh, one more thing. She said, You know, my main concern is the health and welfare of my workers here. And I looked at her and said: Well, why do only three people have on masks? There were 20 people in there. So she said: Well, follow me. I want to put you in a chair where I can watch you. And I thought okay. So walked into the room 1, back to room 1 where all of the voting booths were. She rips off a little poster off the wall and said: Here, this will tell you where you can sit.

So I read the poster. And it just so -- just so turns out that it's the Georgia voter voting rights poster. And I read it and I said: This doesn't say anything. And she got mad again. So I sat down where she told me. I was this far (indicating) from the voter. I was

sitting behind him. I -- you know, I was sitting there counting the thread count on the yoga pants. It was that close. So I went like this (indicating), you know, you put me too close. She comes in, gets up -- gets me up and said: Go into the room that you wanted to be, which was the last room.

So I'm sitting there and she comes over and she says: You can sit here but you can't go count the votes off the DRE until 7:00. And I knew that was wrong. So if you look at O.C.G.A. 21-2-408, a poll watcher is a person named by a political party, political body, or a candidate who is authorized to enter the enclosed space to observe the conduct -- conduct of an election in the county and recording of votes. Says nothing about I can only do it after 7:00.

Then notwithstanding any other provisions in this chapter, a poll watcher may be permitted behind the enclosed space for the purpose of observing the conduct in the election and counting and recording the votes. That's what I did. So I went -- I recorded -- I think it was 714 votes.

I went back to room 3, sat down, two

minutes, three minutes later, police officer comes in and said: You're being escorted out. Grab your stuff, you're going to be escorted out. And I said: What for? Well, he said, for the -- I forgot the term she said for the -- for the incident. I said: What incident? And she didn't answer me. I said: What incident? Either she wouldn't tell me or didn't know. So she escorts me out to my car, tells me to get off the property, and I'm sitting there in my car making a phone call to our headquarters. Bam, bam, bam. Get off the property.

So, you know, she's right. I -- I caused the man to come in to -- to have me move, but it's not my fault because she has no supervision over where I sit.

And then it told me that after I sat down back in room 3: He was subsequently observed walking through the voting area within the immediate area of voters attempting to scan ballots, scan ballots when specifically told that he could not be in that area.

I'm sorry but if you look at this, it said we're allowed to be in the enclosed space. There's several -- several places that it tells

you that. So that's it.

I -- I wrote a -- I called our headquarters. I wrote a complaint to Brad Raffensperger. Here it is almost 18 months later. I still don't know what the incident is and I'm being investigated. Why am I being investigated? I was the offended party.

So anyway, I would like the following things for the state BOE for causing some -- a lot of duress: Stamp my parking ticket -- I've been here all day -- a letter of exoneration, and -- this is very important to me -- assurance that Mrs. Daniels will never again be allowed in a supervisory position as a poll worker. She seems very indig -- vindictive and ignorant of the laws and the rules of poll watchers.

It's funny that the -- the witnesses are no longer responding to the investigators requests for follow-up information. You know, how convenient can it be? The investigator in the matter does -- seems to not know the laws of Georgia and the rules of poll watching. Wouldn't it be better if she knew the laws before this thing started?

If she had known the laws -- two laws,

that's all she had to know, two items, I wouldn't be -- I wouldn't be standing here before you. But I -- I don't think -- I mean, I'm not perfect but I followed the laws and she didn't.

And that's it. Thank you.

MR. LINDSEY: (off microphone) We don't have the case involving Fulton County before us. I'm sorry, I keep doing this. (Mic on) we don't have the case -- we don't have the case involving Fulton County before us, just the case involving you. I -- but I understand your situa -- is there a case pending on this matter involving the poll worker?

MR. BRUNSON: What was that?

MR. LINDSEY: Is there a case now pending on the poll supervisor on this that you know of?

MR. BRUNSON: No, not right off the top of my head that I know of.

MR. FERVIER: Have you filed a complaint, Mr. Sibley?

MR. SIBLEY: We had a Zoom meeting last January. I guess it was --

MR. LINDSEY: Involving you or -- I was asking if there was one involving the poll supervisor.

MR. FERVIER: Have you filed a complaint?

MR. LINDSEY: I'm just curious.

MR. SIBLEY: I am going to because I -- I let go --

MR. FERVIER: But you -- but you have not yet. Okay.

MR. SIBLEY: I wrote to Brad Raffensperger and I said: This is what happened and it's not right to treat somebody, a volunteer, like this. I didn't do a darn thing wrong.

MR. FERVIER: Okay. I was -- but you haven't filed any formal complaint yet --

MR. SIBLEY: No, I haven't.

MR. FERVIER: -- for the SEB, okay.

MR. LINDSEY: Miss Williams, you --

MR. SIBLEY: (off microphone, inaudible)

MR. LINDSEY: Understand, understand. It's getting toward five and I've got somebody who's got to get to a doctors appointment, okay? So let me -- let me slightly rush this.

Miss Williams, I know that you -- you're not on notice on this. Do you know anything at all about this? Either one of you? I mean, I -- I'm --

MS. BRUMBAUGH: (off microphone) I'll be

brief. I have a statement. And I think the facts are, shall we say, in dispute. This is a statement from someone at the time. There was some stuff that happened before which I won't get into, but then the manager returned and was accompanied by Mr. Sibley. He was allowed to present his credentials and remain despite his conduct. The manager informed Mr. Sibley that he would be allowed to stay but instructed him to follow her instructions and to comply with the poll watcher guidelines posted in their designated seating area. However, shortly thereafter, Mr. Sibley began frequently leaving the poll watcher area. Although voters were attempting to vote, Mr. Sibley would repeatedly get up to check numbers on the BMD machines and the scanner over short intervals, sometimes maneuvering among voters as the location remained busy and voters were actively voting.

On one occasion I observed and asked Mr. Sibley to remove himself from where he was standing because it was as close as three feet away from where the standalone scanner was located and some voters were having to navigate around Mr. Sibley. Space was very limited where

the scanner was located in the room and his presence created an interference to voters.

After repeated warnings at various times by a manager which he recurrently flouted (phone ringing), Mr. Sibley's removal was demanded by the manager. Mr. Sibley angrily complied but only after speaking aggressively and disrespectfully to the manager Mrs. Daniels.

Certainly the code section does allow poll managers to make reasonable regulations to prevent the interference of voting (indiscernible).

MR. SIBLEY: (off microphone) One thing that -- there's another regulation in there. It said after -- four oh eight, after duly warning, which means you got a warning the first time and this is the second time. There was no warning. Absolutely no warning. I was shocked when she came and said: You're out of here. And I checked the numbers twice. So there's a term for that but I'm not going to say it.

MR. LINDSEY: Have you had a chance to -- to interview the poll -- the poll manager?

MR. BRUNSON: Yes.

MR. LINDSEY: I can't remember. I'm looking

back in my notes --

MR. BRUNSON: They both submitted statements, but --

MR. LINDSEY: Yeah, okay.

MR. BRUNSON: -- ultimately they didn't -- you know, they're not here, I guess, to speak to the -- their side of things.

MR. SIBLEY: (off microphone) Four times. Four times I made her mad because I didn't obey -- I want -- I said: I want to sit here so I can watch over -- watch the drop box. And she said: Why do you need to watch the drop box? We've got a camera over there. And I said: I don't know if it works and I'm by myself in this room. I'm not interfering with anybody.

And the second time was when I went like that (indicating). I said: You put me right here behind the -- a voting box. Right there. And then when I pulled -- she pulled the poster off the wall and I read it, and I said: This says nothing about where I'm going to sit. Made her mad again.

So that's it. I mean, I'm -- I'm there as a -- you know, a volunteer. I'm not making any money like she -- the poll manager is. So I do

it because I want to do it. So anyway ...

MR. FERVIER: Any further questions from the board? The chair will entertain a motion.

MR. LINDSEY: We're kind of handicapped by the virtue of the fact we've got one of the persons here and we don't have the other persons here.

MR. SIBLEY: And the witnesses disappeared.

MR. LINDSEY: No, no, no. The poll manager's not here. Is the poll --

MR. SIBLEY: I'm talking about the witnesses. She --

MR. LINDSEY: Is the poll -- is the poll manager still around? She's still a poll manager? Frankly, I'd like to -- to hear -- I mean, we've got two totally different versions here. And I respect yours. And I'm not --

MR. SIBLEY: I was there 20, 25 minutes at most.

MR. LINDSEY: Yeah. You're here.

(Cross-talking)

MR. SIBLEY: (indiscernible).

MR. LINDSEY: She's not here. I'm feeling handicapped by that. You're not going to like what I'm about to do but I'm also going to

recommend that we put you at the front of the line in August. But I would like to hear from both of these people, given the fact -- I don't want -- I don't want -- I don't want polls disturbed, okay?

MR. SIBLEY: Yeah.

MR. LINDSEY: But at the same time, I want poll watchers to be able to do their -- their duty because they -- they are a very important part of democracy.

By the same token, I don't want to see disruptions in our poll places. And -- and I consider this somewhat a little bit serious because somebody either interfered with a poll watcher or somebody -- or a poll watcher interfered with the operation of a poll. And the poll manager wasn't put on notice to come today.

So I'm going to move to continue this, but I am going to ask that the chair -- because you sat here all day, that we put it somehow close to the front of the next hearing --

MR. SIBLEY: I've been last twice.

MR. LINDSEY: -- and then we hear from her. What?

MR. SIBLEY: I said I've been last twice.

MR. LINDSEY: You've been here --

MR. FERVIER: We'll -- we'll move you up.

(Cross-talking)

MR. SIBLEY: (off microphone, indiscernible)

MR. LINDSEY: Oh, you're not last. Nevertheless, I'm going to move you -- I'm going to ask the chair for that discretion because I -- I respect the fact that you've been here to defend yourself and I -- I find that to be very compelling.

By the same token I want to be fair to make -- and I want to make sure that -- that this gets aired out and that, quite frankly, everybody gets to hear poll watchers have a duty, poll managers have a duty. We want to make sure that we have our elections fair.

So for that reason, I'm going to move at 5:00 -- and I have got a -- I've got a -- a member who needs to leave to -- for a medical reason and I apologize (indiscernible).

MR. FERVIER: We have a -- we have a motion -- we have a motion to continue this case to the August calendar?

MR. LINDSEY: Yeah.

MR. FERVIER: Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion and a second to continue this case to the August calendar. Any discussion?

Hearing no discussion, all those in favor of moving this case to the August calendar -- continuing this case to the August calendar signify by saying aye.

THE BOARD MEMBERS: Aye.

Would you please have the manager here next time?

MR. FERVIER: Any opposition? Hearing no opposition, so moved. It carries four to zero.

We have a hard stop today at 5:00. I'm sorry we didn't get through all the rest of the cases. We will hear them in the morning.

We'll be changing locations in the morning. This has already been spoken for. So tomorrow we're meeting at --

MS. HARDIN: (off microphone) We'll be meeting in room 450.

MR. FERVIER: Room 450?

MS. HARDIN: 450, right? In this building?

MR. FERVIER: 450 at this building. Room 450 at 9:30 in the morning.

You have the motion to adjourn?

MR. LINDSEY: So moved.

MR. FERVIER: We have a motion to adjourn. A second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a second. All those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Motion carries.

Thank you for your attendance today.

(Adjourned at 5:02 p.m.)

CERTIFICATE

STATE OF GEORGIA

I hereby certify that the foregoing meeting was taken down and was reduced to typewriting under my direction; that the foregoing transcript is a true and correct record given to the best of my ability.

The above certification is expressly withdrawn upon the disassembly or photocopying of the foregoing transcript, unless said disassembly or photocopying is done under the auspices of the undersigned and electronic signature is attached thereon.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties; nor am I financially interested in the action.

This, the 7th day of June, 2024.

Mary K McMahan

Mary K McMahan, CCR
Certified Court Reporter
Certificate Number 2757

THE OFFICE OF SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:

STATE ELECTION BOARD MEETING

Wednesday, May 8, 2024,

9:30 a.m.

APPEARANCE OF THE PANEL

John Fervier, Chair

Sara Tindall Ghazal

Rick Jeffries (by phone)

Janice Johnston

Ed Lindsey

Michael Coan, Executive Director

Mary K McMahan, CCR
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Atlanta, Georgia 30324
(404)733-6070

Transcript Legend
(sic) - Exactly as said.
(phonetic) - Exact spelling unknown.
-- Break in speech continuity.
. . . Indicates halting speech, unfinished sentence or omission of word(s) when reading.
Quoted material is typed as spoken.

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P R O C E E D I N G S

(In progress)

MR. FERVIER: ... meeting of the State Election Board. First item on the agenda today is the invocation, the Pledge of Allegiance.

Member Johnston, would you please lead us in prayer.

(Invocation)

MR. FERVIER: Member Ghazal, would you lead us in the Pledge of Allegiance, please.

MS. GHAZAL: Yes.

(Pledge of Allegiance)

MR. FERVIER: We have some remaining items from yesterday's agenda that we're going to go through first. And then we'll move into the hearing of petitions after we finish those cases. And we have a special -- we have a -- something else that we'll add to the agenda once we get through the rest of these cases.

VIOLATION CASES

MR. FERVIER: The first case that we will hear this morning is SEB2022-344, Fayette County ineligible voter, November 2022. It's on tab 29.

MR. BRUNSON: Ready?

MR. FERVIER: Yes, investigator.

MR. BRUNSON: (Off mic) The Georgia Secretary of State initiated this investigation following the receipt of an online complaint (mic on) regarding an unqualified voter who was allowed to vote in the general election on November 8, 2022.

On November 4, 2022, the unqualified voter, Cecily Lacy, arrived at the Fayette County library for advance voting for the November 8, 2022, general election. According to a poll worker, Jean Elmore, she check Lacy in by EasyVote, verified her information, provided a signature, and printed the absentee ballot application. Elmore advised there were no red flags or error messages from EasyVote.

Elmore advised in her experience with EasyVote, if there was an alert or error, a message is generated and the check-in process is automatically stopped. However, Elmore advised nothing appeared to be out of the ordinary. She advised Lacy to go to the poll pad check-in for a voter card.

Elmore advised after using EasyVote, she entered the voter registration number into ElectioNet and an alert, error message appeared.

Elmore advised by then Lacy had voted and left the polling place.

The issue was Lacy had a registration date of 10/12/2022, but the registration cut-off date was 10/11/2022 and this is what made her unqualified.

The investigator later interviewed election director Brian Hill for Fayette County who advised that this issue occurred because the worker rushed through the process to get through the voter lines. Hill advised that poll workers must check ElectioNet before sending the voter to the poll pad for an access card.

Hill advised that he always makes it clear during poll worker training that EasyVote is not the official state system. Although EasyVote shows voter information, it is exclusively used for signatures for absentee ballot applications and voter oaths.

On 8/25/2023, contact was made with the voter. She verified her identify -- Mrs. Lacy that is. She verified her identity, her address, and confirmed she was a registered Fayette County voter. Lacy confirmed she participated by absentee voting in the general election on

November 8, 2022. Lacy confirmed she was a first-time voter and advised she was unaware of the October 11, 2022, deadline that prevented her from being eligible to participate in that election. Lacy's immediate response to the deadline was to question why she was allowed to vote in the first place.

So based on the evidence -- based on the investigation, there is evidence to suggest that Jean Elmore violated O.C.G.A. 21-2-245(a) and SEB Rule 183-1-12-.11.2(a) when she failed to check the voter registration system to confirm a voter's eligibility to vote and allow an unqualified voter to vote in a primary for election.

MR. FERVIER: Is there a respondent here from Fayette County? Are there any questions from the board?

MS. GHAZAL: Yes. Thank you very much for this report. And it seems quite clear that the problem in the system lies with the EasyVote system itself.

Now, EasyVote is only used during advanced in-person voting; is that correct?

MR. BRUNSON: Yes, that's what it was used.

Yes.

MS. GHAZAL: Do you know whether or not, moving forward, EasyVote will still be used by counties?

MR. BRUNSON: Yes, there are some counties that still utilize EasyVote. Yes.

MS. GHAZAL: I think it's really critical that -- that counties understand the limitations of this system. If the system does not flag voters who are not qualified to vote in this particular instance, then these are -- these are votes that never should have counted.

And I would ask that -- I don't know that we have anybody from the Secretary of State's Office here. I would ask that the Secretary of State's Office issue a -- an official guidance and provide training to counties that use EasyVote specifically about this loophole. Because this never should have happened. The voter is not at fault, but -- and the county is at fault if they're not sufficiently training their people that EasyVote is not to be used as an alternative to the check-in system because it cannot be.

MR. BRUNSON: Yes. It looks like the director, Brian Hill, said that, that they're

trained to not rely on EasyVote, that they need to check the system before they allow someone to vote. But it looks like she rushed through that process and then after the person was already gone is when she checked and by then the vote was already cast.

MS. GHAZAL: I -- I have experienced in the past where counties use EasyVote and they don't actually sync it up with the -- with the state system for days.

MR. BRUNSON: Yeah.

MS. GHAZAL: So I know that in -- in past elections, EasyVote has been used as the check-in system and this is a real problem.

MR. BRUNSON: Okay.

MR. FERVIER: Are there any questions from the board?

DR. JOHNSTON: No.

MR. LINDSEY: I'm just trying to figure out why on earth we use EasyVote. If it doesn't -- if you can't verify that someone's eligible to vote that day why on earth do we -- do we use it?

MR. BRUNSON: To fill in things quickly, I think. So instead of -- it -- it populates --

MS. GHAZAL: Right.

MR. BRUNSON: -- automatically. So people don't have to type in, fill out information.

MR. LINDSEY: But the --

MR. BRUNSON: Somebody made a -- somebody made a -- it's kind of called a glorified pen is -- is one of the statements that was from the investigation. So it just fills out things quickly.

MS. GHAZAL: Well, then I'm going to actually go a little bit further because we don't need it anymore now that we have updated poll pads and an updated system. The poll pads can be used for early voting. This is the first -- the first cycle in which we can do that.

I'm going to request that the -- that the Secretary of State's Office evaluate whether or not EasyVote should still be a -- a certified -- or a system that is allowed even. Not just that they need to warn counties, I want to -- I -- I want a serious inquiry whether or not counties should be allowed to use it moving forward.

MR. BRUNSON: Okay.

MS. GHAZAL: And I would like a report back from the Secretary of State's Office at -- at our next meeting -- at the August meeting. Not July,

but in the August meeting.

MR. FERVIER: Would you please detail your request to Alexandra and she'll forward that to the Secretary of State's Office?

MS. GHAZAL: Absolutely.

MR. LINDSEY: In order to sort of use this as a vehicle, that discussion should be simply to continue this case until August? This is a question.

MS. GHAZAL: Yeah.

MR. LINDSEY: Should we simply continue this case till August and have -- with the request from the Secretary of State's Office to come in so we can have this discussion and using this case as -- as an example of a problem with the EasyVote? That's my question.

MS. GHAZAL: I would agree with that.

MR. LINDSEY: For that reason, I would move to continue this case. If -- if Alex could please have the Secretary of State's Office to come and let's -- let's have that discussion.

MR. FERVIER: We have a motion by member Lindsey to continue this case till the August meeting. Do we have a second?

MS. GHAZAL: Second.

MR. FERVIER: Having a motion and a second, any discussion? Hearing no discussion, all those in favor of continuing this case to the August meeting signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any nays? Hearing no nays, the vote passes four to zero.

Next case that we'll hear is SEB2022-356, Fulton County, Welcome All Recreation Center tabulation issues.

MS. KOTH: The Secretary of State's Office initiated this investigation after it received a complaint alleging that a poll manager tabulated and posted results prematurely at the Welcome All Recreation Center, an advance voting precinct in the December of 2022 general election runoff.

The allegation that the poll manager prematurely tabulated and posted election results at the welcome center during the advance voting period was substantiated. The investigation found sufficient evidence to show that the poll manager at the Welcome All center polling location erred by prematurely tabulating the ballot scanner and affixing the tabulated results -- taped to the --

UNIDENTIFIED SPEAKER: We can't hear.

MS. KOTH: -- to the door of the polling location at the closing of the precinct during the advance voting period for the December 2, 2022, runoff. At the end of the advance voting period, the poll manager is only required to shut the scanners down and wait for the main office to tabulate results on election day.

The poll manager inadvertently chose to close the polls which tabulated the election results, and he subsequently posted the results for -- for view which should not have been done as the polls do not close until the end of the election on election day.

Martin inadvertently followed the protocol for closing the polls after the election was final. The potential violations are for SEB Rule 183-1-14 and O.C.G.A. 21-2-386(2)(a).

MR. FERVIER: Any respondents?

MS. BRUMBAUGH: Good morning. This is another case where the facts are not in dispute. That is what happened. The poll manager had historically worked election day. He got confused and did the election day procedures instead of the advance voting procedures. He has

been disciplined. He is -- has lost his job as a poll manager. He is also not working this election at all. And this mistake has been incorporated into trainings and into reminders.

So we would ask that you agree with the Secretary of State's recommendation and just issue a letter of instruction on this case.

DR. JOHNSTON: Mr. Chair.

MR. FERVIER: Yes.

DR. JOHNSTON: So this is identical to the case presented yesterday from Clayton County. It's a chronic problem. It's -- it needs to be improved upon in all counties, not just Fulton County, that inadvertent closure of the poll and -- and printing tabulation of votes is against -- against Georgia election law and it's -- it should not be tolerated.

MR. FERVIER: Member Ghazal.

MS. GHAZAL: I have one -- one question, attorney Brumbaugh. What happened to the tapes? Because here they were -- they were posted, were they secured afterwards? When -- when did Fulton County receive notice that -- that this was posted and -- and what happened with the -- with the results?

MS. BRUMBAUGH: Unfortunately I can't answer that question and my client was not able to come back this morning. I can certainly ask. I'll -- I don't want to speculate, but I also want to advocate for my client and assume that it -- it was -- it was handled, this was the end of the problem and -- and it was then taken care of. But I can certainly ask, if that's important.

MS. GHAZAL: No. Thank you.

DR. JOHNSTON: Mr. Chair.

Thank you for the report of handling the problem. And again, like yesterday, I make a motion that we direct the Secretary of State to provide clear guidance on what to do when there's an advertent closure of a poll from early voting or at any time, what -- the proper procedure and security should -- to provide to those tabulation tapes of the results are -- are -- are not available for anyone who wants to see before the close of election day.

MR. FERVIER: So your motion is that this board will provide a recommendation to the Secretary of State to provide clear guidance on the early closing of polls?

DR. JOHNSTON: Yes. I -- I would not just

request. I think my motion is to direct the Secretary of State to provide this guidance.

MR. FERVIER: We have a motion from member Johnston to require the Secretary of State to provide clear guidance on the early closing of polls; is that correct?

DR. JOHNSTON: That's correct.

MR. FERVIER: Is there a second?

MR. LINDSEY: I'm not sure if we have the power to direct versus strongly recommend. Unfortunately, you know, the General Assembly, in its infinite wisdom, did not give us that explicit power. So would you be willing to say "strongly recommend" rather than a direct -- just so we can -- just so I don't get -- we don't get into a squabble with somebody.

DR. JOHNSTON: I will amend my motion to strongly recommend.

MR. LINDSEY: I'd like to direct, but I don't think I have the power to direct. So let's just go with strongly recommend.

MR. FERVIER: The motion's been amended by -- the motion's been amended by member Johnston that this board strongly recommend the Secretary of State provide clear guidance on the

early closing of polls. We have a second from member Jeffries. Any discussion? Hearing no discussion, all those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the motion is carried four to zero.

Are there any other motions pertaining to this particular case?

MR. LINDSEY: Go ahead.

MS. GHAZAL: I move that we issue a letter of instruction to Fulton County as per the recommendations.

MR. FERVIER: We have a motion from member Ghazal that we issue a letter of instruction to Fulton County. Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: There is a second. Any discussion? Hearing no discussion, all those in favor of issuing a letter of instruction to Fulton County on SEB2022-356 signify by seeing.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the move is -- motion's carried four to zero.

The next case that we will hear is SEB2023-035, Fayette County qualification fee issue. It's tab 32 in your binder.

MR. BRUNSON: All right, ready?

MR. FERVIER: Yes.

MR. BRUNSON: Secretary of State's Office initiated this investigation after it received a self-report saying that the city of Fayetteville inadvertently published the wrong amount for the qualifying fees for council post and mayor, a potential violation of O.C.G.A. 21-2-131, fixing and publishing of qualification fees.

So ultimately this particular allegation was substantiated. The initial qualifying fee that was posted by Valerie Glass, the city clerk, included a stipend which is not designated as a supplement but instead to cover the mayor and council members' personal use of their vehicles, gas, and maintenance expenses.

Once the city officials realized that the error in calculation had also been made by the previous clerk, the city passed a resolution defining qualifying fees. After the resolution was voted on and approved by the city council, a new publication was posted in the newspaper. The

correction was posted in the newspaper on July 5, 2023. The error was noted after the city of Fayetteville's finance director Michael Bush -- provided them with the correct fee amount. And looks like the incorrect fees were 468. The correct fee for mayor is 342. Incorrect fee for council member was 324 and the correct fee is -- was 234.

MR. FERVIER: Is there a respondent here from Fayette County?

What are the questions from the board?

MS. GHAZAL: I have a quick question. It seems from my reading of this that the correction was made prior to actually collecting any of the fees; is that right?

MR. BRUNSON: Yes, that's correct.

MS. GHAZAL: So the -- the corrected fees were what was charged to -- to any -- any candidate?

MR. BRUNSON: Yes.

MS. GHAZAL: I -- at the appropriate time, I would move to dismiss this based on they -- they corrected the action. No candidate was charged an incorrect fee and it was inadvertent because this is unclear. And clarity is going to come

when we get the Attorney General's advisory on what constitutes salary versus supplement.

MR. FERVIER: Are there any further questions from the board? The chair will hear a motion.

MS. GHAZAL: I move to dismiss.

MR. FERVIER: We have a motion from member Ghazal to dismiss. Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: There's a second from member Johnston. Any discussion? Hearing no discussion, all those in favor of dismissing SEB2023-035, Fayette County qualification fees signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the motion carries four to zero. This case will be dismissed.

The next case that we'll hear is SEB2020-292, Richmond County voter registration. It's tab number 35 in the binder.

MS. KOTH: This case has three allegations. The first one, John Bullard alleged someone forged his mother Martha Bullard's signature on her absentee ballot from the November 3, 2020,

general election.

Allegation 2, Theresa Rogers observed -- or alleged she observed a male place around 50 absentee ballots in a drop box at the local courthouse.

The third allegation, Richmond County elections supervisor Lynn Bailey alleged her office located 17 voter registration applications and one absentee ballot they believed to be suspicious.

For allegation 1, the voter application for Ms. Bullard, dated 9/15/2020, and the absentee ballot applications for 9/15/2020, 10/2/2020, and 12/7/2020 were pulled and signatures were looked at by the investigator. All but the 12/7/2020 were verified and signed in cursive. The 12/7/2020 was printed and that was the document that was questioned.

Ms. Bullard was at Stevens Park Health and Rehabilitation Center and was in quarantine since March of 2020 and her son only spoke to her through a window, and he did not think his mother signed in print.

She was assisted by Shaney(ph) Ball who was an employee at the time. Ms. Ball was employed

from 2009 until December 18, 2020, as a social worker. Ms. Ball was interviewed and she stated she signed as the assistive person and advised Ms. Bullard signed in cursive and in print in the last 12/7/2020 application. Ms. Bullard had past away on 12/26/2020. So that allegation was unsubstantiated.

Allegation 2, the complainant advised she and her husband witnessed a black male around 50 years of age, medium build, wearing glasses, and witnessed this male drop off what appeared to be 40 or 50 applications on October 20, 2020, around 10 a.m.

Travis Doss, the Richmond County elections supervisor reviewed their files and surveillance footage and found numerous black males wearing glasses, however, none of them appeared to put more than one or possibly two ballots in the drop box. The video was viewed from 8:00 until 11 and that allegation was unsubstantiated.

The third allegation, the investigator was able to identify three canvassers who were employed by the Outreach Team during the registration period leading up to the January 5, 2021, runoff. The canvassers were identified as

Broderick Green, Talisia(ph) Jacobs, and Priscilla Brown. All three canvassers signed voter registrations as assisting that were flagged as suspicious by the Richmond County election office.

Broderick Green signed as assisting Fannie Nelson and she was listed as canceled due to being deceased. Mr. Green was interviewed and he didn't remember registering anyone to vote or working for a registration organization in 2020. He also stated he only signed his name with a "Y" in between his first and last name.

His signature card was pulled and he signed his name without the "Y" on his registration dated 6/19/2021. The signatures on Mr. Green's past voter registration shared similarities with the signature on Miss Fannie Nelson's voter application date 11/25/20.

Talisia Jacobs signed as assisting a voter registration for Imani Meadows dated 11/30/2020. There was a second voter registration dated 10/4/2020 for Imani Meadows and no one signed as assisting. Both registrations had different dates of birth, Social Security numbers, and signatures.

The investigators spoke with Ms. Meadows who advised neither signatures on the applications were hers. She also said Ms. Jakes -- Ms. Jacobs was her friend and she gave Ms. Jacobs permission to complete a voter registration and does not believe she meant to commit any type of fraud.

Ms. Jacobs was interviewed and she advised that she was paid $25 an hour and at first there was no quota. She was later told that if she didn't produce at least ten voter registrations a day she would lose her job. And she really did not want to lose her job. She looked at both and said they both looked like hers. She said her intention was not to commit fraud but merely keep her job.

Priscilla Brown signed as assisting on five voter registrations for Stacey Pinkston, Michael Jackson, Ezra Lay, Steven Brown, and Joanne Smith. The voter registrations were dated between November 30, 2020, and December 7, 2020.

The investigator checked current address but was unable to locate Stacey, Michael, Ezra, and Steven Brown.

The investigator spoke with Joanne Smith who reviewed the voter registration application and

confirmed the signature was not her own. Ms. Smith remembered while shopping being approached by a black female who asked if she was registered to vote. Ms. Smith informed her she was already registered, but the lady said let's fill one out just to make sure. Ms. Smith gave the lady her information who in turn filled out the form. Ms. Smith said the lady never asked her to sign the voter registration application.

The investigator spoke with former canvasser for the Outreach Team, Priscilla Brown, who reviewed the five voter registrations and identified the signatures in the person assisting section as her own. Ms. Brown claimed she only helped people fill out their registration. And if they had an inability to do so, it was her understanding that if she helped the voter in any way to include reading or explaining any part of the registration, she had to sign as assisting. Ms. Brown claimed she did not forge the applicants' signatures and said the cursive handwriting was not her own.

The investigator showed Ms. Brown a past signature example Richmond County had for Joanne Smith and she agreed the signatures looked

different. Several times through the interview Ms. Brown claimed the handwriting on Joanne Smith's application was not her own. Ms. Brown claimed she did not forge Ms. Smith's signature and said the cursive handwriting was not her own. She then apologized and said if she did something wrong, it wasn't intentional.

Potential violations were for Broderick Green, Talisia Jacobs, and Priscilla Brown for violation of O.C.G.A. 21-2-562(a)(1) for fraudulent entries, unlawful alteration or destruction of entries and unlawful removal of documents, neglect or refusal to deliver documents.

MR. FERVIER: Is there a respondent here from Richmond County?

Are there questions from the board on this case?

MR. LINDSEY: Yeah. The -- the folks that hired these people, Outreach, they're not a party to this case, right? Are they a party? They're not a party. They're not a respondent; correct?

MS. KOTH: No. They confirmed that all three of them worked for Outreach, though.

MR. LINDSEY: Frankly, they should be a

party. And I'd like to see a file open as to them because it -- it would appear their -- their training is -- is deplorable and perhaps even to the point of if they are requiring quotas for registrants, I believe that's in violation of -- of our laws.

And if they were a party right now, based on what I know right now, I would probably be -- be looking at some very severe sanctions. So, I mean, that's my first comment. I am -- as -- as to them.

As to the second allegation, you know, with the 50, it's my understanding that -- that we had someone from the county election board review the tape rather than us reviewing the tape; correct?

MS. KOTH: Yes. He reviewed it from 8 to 11.

MR. LINDSEY: Yeah. Is that the time period that the -- that the woman said that she thought --

MS. KOTH: It was at two hours before and one hour after.

MR. LINDSEY: Yeah. And I realize you guys are swamped and underneath an allotted time frame. But given the seriousness of the

allegation of someone claiming that someone was literally stuffing 50 ballots, I'd like to have somebody from our -- from our side actually look at the tape to make sure that there wasn't an irregularity.

Is -- is this sort of tape something that can simply be transmitted to you guys? Or is that something that -- that y'all will have to travel to see? I'm just sort of curious. Do you know?

MS. KOTH: I'm not sure. I'll have to ask the investigator.

MR. LINDSEY: Yeah.

MR. FERVIER: It's -- it's likely a huge data file.

MS. KOTH: Yeah.

MR. FERVIER: And -- and --

MR. LINDSEY: But, you know, you understand where I'm coming from. I mean, this -- this -- given the fact that the allegation is of someone stuffing 50, that's a pretty serious allegation and -- and I'd like -- and while I appreciate that the county election board did review it, given the seriousness of the allegation, I'd like to see someone -- one of our investigators look

at it as well.

So at the appropriate time, I'd like to continue that one. I would like to send the others -- matters to the Attorney General, and I'd like to open a file as to this organization.

MS. KOTH: He did interview the former deputy director of Outreach Team who confirmed she worked for the Outreach Team during the 2020 election. She said that she worked for the organization and they did everything accurately and to the best of their ability. She was unaware of any of these issues until this point.

She also said that the canvassers during the first campaign were expected to work in the field and that they were trained not to sign on anybody's behalf. She said that would be highly discouraged. No, we don't sign anything on anybody's behalf.

MR. LINDSEY: Well, obviously, their training wasn't adequate. And so, like I said, I'd like to see a file open -- a complaint open as to them. I think that we have the power to do that.

But, like I said, at the appropriate time, I'll make a motion as to the -- the third

allegation to send to the Attorney General.

And I'd like to continue the second allegation, give you guys a chance to look at it ourselves, given the -- given the fact we're talking about 50 ballots allegedly being stuffed. I just want to run that one to -- to ground.

MR. FERVIER: Any other questions from the board? The chair will entertain a motion.

MR. LINDSEY: As to allegations -- well, make sure I get it right here. As to allegations 1 and 3, I would move that these matters be referred to the Attorney General for further action.

MR. FERVIER: And allegation 2?

MR. LINDSEY: Allegation 2 -- I was going to do that separately, but allegation 2 I would move that we continue that and ask one of our investigators to actually look at the tape as well, given the seriousness of the claim.

MR. FERVIER: We have a motion to send allegation 1 and allegation 3 to the Attorney General for further investigation. Do we have a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a second from member

Johnston. Any discussion? Hearing no discussion, all those in favor of sending allegation 1 and allegation 3 of SEB2022-292, Richmond County, voter registration to the Attorney General for further investigation please signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the motion carries four to zero.

MR. LINDSEY: As to allegation 2, I'd move -- I ask that would be continued and ask our investigators to review the tape, given the seriousness of the claim.

MR. FERVIER: A motion's been made by member Lindsey to continue allegation number 2 and ask our investigators to further review that allegation and look at the tape pertaining to that allegation. Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion and a second to continue allegation 2, send it back to an investigator for further review of the tape. Any discussion? Hearing no discussion, all those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, motion is carried four to zero.

DR. JOHNSTON: Mr. Chairman.

MR. FERVIER: Yes.

DR. JOHNSTON: Is there a motion to open a case on the Outreach ...

MR. LINDSEY: Yeah. I mean, is that -- is that the appropriate -- yes, I would move to open up a case against -- what's the name of the --

DR. JOHNSTON: The Outreach Team.

MR. LINDSEY: Outreach Team.

MR. FERVIER: Who's going to be the complainant?

MS. KOTH: Do you want to add them as a respondent or to ...

MR. LINDSEY: I'll tell you what. We can -- I think the easiest thing would be to add them as a respondent. Thank you very much. I appreciate my investigator knowing how to do this. That's -- I lean on her a great deal.

Move that -- that they be added as a respondent and that the matter be taken up at the next -- next hearing since the investigation's already been completed.

MS. KOTH: Okay (indiscernible).

MR. LINDSEY: To give them an opportunity -- to give them an opportunity to come and be heard and to see whether or not -- what remedy we need to impose as to them.

MR. FERVIER: But they would be -- they would be responding to allegation 3; correct?

MR. LINDSEY: Correct.

MR. FERVIER: Which we've already moved to send to the Attorney General's Office.

MR. LINDSEY: As to -- as to those individuals. But I would keep that issue open as to Outreach.

MR. FERVIER: Okay. There's a motion to add Outreach as a respondent and request their presence at the next board meeting to respond to allegation number 3; is that correct?

MR. LINDSEY: In terms of their conduct, yes.

MR. FERVIER: In terms of their conduct in this issue. Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion and a second to add Outreach as a respondent to allegation number 3 in SEB2020-292. We have a second. Any discussion by the board? Hearing no discussion,

all those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, so moved by a vote of four to zero.

Next case we'll hear is SEB2022-036, Clarke County false ID card.

MR. BRUNSON: The Secretary of State's Office received a complaint from a complainant, Jessa -- Jessica McFadden, who indicated that an Oscar Lee Sutton, Jr. received a voter ID card using her home address and she does not know him.

So on April 27, 2022, our investigator spoke with elections clerk Nathan Orck with the Athens-Clarke County elections office. He gave investigator copies of Mr. Sutton's voter registration applications. Mr. Sutton registered to vote on both January 21, 2022, and July 12, 2021. After the July 2021 attempt, he was sent a letter informing him that he was a felon under sentence, therefore he could not register to vote. Mr. Orck also told the investigator that the photo in the ID would've been taken in person on the day he filled out the application. ElectioNet indicates that Mr. Sutton has no voting history.

Our investigator later spoke with Mr. Sutton who was then in Clarke County jail for failing to register as a sex offender. Mr. Sutton claimed that the reason he applied for a voter ID card was because he needed an ID so that he could obtain a free government phone from a homeless advocate. He said that he could not use the address of the homeless shelters anymore, which he had previously used, so he decided to use an address where he resided in the past.

He told the investigator that about one or two years ago, he used to stay at the address, 130 Winchester Way, with his former employer who owned a landscaping company. And that individual is named Jason Call. He indicated that he lived at that address for about six to eight months while between living arrangements.

Mr. Sutton stated that Mr. Call eventually moved to a larger home, so he had to leave as well. Mr. Sutton was hopeful that when his voter ID card was mailed to Winchester Way, the current owner would have sent it back to the elections office where he would then pick it up. He told him that since applying for the ID, his tent caught on fire and he lost all his IDs. And then

ultimately he was arrested for the charge.

So the investigator later did speak with the former employer, Mr. Call, who confirmed that Sutton did work for him in the past. He indicated that the only time that Sutton was at his residence is when he was doing landscape work there and that he never lived there with him.

So ultimately our investigation determined that Mr. Sutton violated 21-2-216(b), qualifications of electors which deals with felons being prohibited from registering to vote while under sentence and also false registration, 21-2-561, where he put the information that he lived at that address when he really did not live at that address.

MR. FERVIER: Is the respondent, Oscar Lee Sutton here?

Are there any questions from the board?

MS. GHAZAL: Yes. So has the respondent ever attempted to -- to vote?

MR. BRUNSON: No. There's no voting history.

MS. GHAZAL: So isn't it true that you cannot get a county issued ID card without registering previously? That being a registered

voter is a prerequisite to be issued this ID card under -- under the -- under state statute?

MR. BRUNSON: Yeah, I'm not -- I'm not certain.

MS. GHAZAL: I'm fairly certain that that is the case. And I can -- if it's relevant, I'm happy to look that up. And the reason I say this is this is one of those tragic cases where we're -- the state is not serving its homeless population in the way that we need to. Because this is literally the only ID card with a photo that a person who does not have their -- the rest of their IDs, which many people who are unhoused do not have access to the paperwork that they need.

And you have to be registered in order to qualify for this ID card. People in -- under these circumstances don't register in order to violate election laws and vote, they register so they can have ID so they can access the services that they need.

And this is -- this is a -- a problem that only the legislature can respond to. Only the legislature can provide an avenue for people when they are leaving the carceral system to be given

a photo -- to be given a photo ID with their information that is recognized as a government-issued ID.

So again more of a comment than a question, but -- but I find this a deeply troubling case because, yes, it is a technical violation, but some of our -- some of our citizens are left without other pathways. And this is the -- the -- this is the -- the least onerous pathway for somebody to actually try to access services that they are allowed to access but not without the ID.

And the address is also an issue. How do you -- you cannot receive mail at a tent. I would vote -- I would move in this case to issue a letter of instruction, but I don't know where to send it to.

MR. LINDSEY: The problem is that -- and you do state -- you do state the problem for those who are homeless and -- and I'm not without sympathy, and I'm not in disagreement as to action needs probably to take place by the General Assembly.

When we created these -- these ID cards, they were for the specific purpose of assisting

folks who did not have a driver's license or another ID to be able to utilize an ID in order to vote. That's -- that's why we set it up. I voted for it, I think in '06 or '07, something like that.

That said, I worry about the precedent of simply a letter of -- of instruction or a dismissal. What kind of precedent does that set in terms of encouraging folks to -- to do the same, which I think is -- is dangerous.

And so for that reason -- and I will leave it to the Attorney General to try to come up with a reasonable resolution in this particular case. But I -- I cannot simply do a letter of instruction and thereby -- and by doing so, encourage others to follow suit which will potentially add people to the rolls that shouldn't be added to the rolls.

And for that reason I -- I will at the appropriate time move to send it to the Attorney General's Office. Happy to have you send along your concerns and let them figure out an appropriate penalty to enlighten the situation, encourage my friends in the General Assembly at the appropriate time, after the second Monday in

January, to maybe come up with a remedy in terms of IDs and that aren't necessarily linked to voters. But I -- I worry about precedent of sending a letter of instruction.

DR. JOHNSTON: So I --

MR. BRUNSON: It --

DR. JOHNSTON: -- I would like. Go ahead.

MR. BRUNSON: It appears he's in -- he's incarcerated right now. So we know where he is now.

DR. JOHNSTON: I would like to add. There are two types of the photo IDs. One is a state-issued photo ID that requires the appropriate documents of authenticity and -- and residency and citizenship to -- to get a card in the state of Georgia.

But there's also a voter ID card that is different. And a person can walk into an election office and -- and just get a voter ID card at -- because I took my 99-year-old mother into Fulton County and they produced a voter ID card with her. She had not lived in Georgia before. She had not registered to vote in Georgia before. And they simply took her word for it and gave her a voter ID card.

So I -- I think there is a problem with proper issuance of either ID card.

MR. LINDSEY: Sure.

At the appropriate time, Mr. Chairman.

MR. FERVIER: Any further questions from the board? The board will en -- the chair will entertain a motion.

MR. LINDSEY: I move that the matter be referred to the Attorney General for further action.

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion from member Lindsey and a second from member Johnston to refer this matter to the Attorney General for further action. Any discussion?

MS. GHAZAL: I would -- I would add with that referral that I believe a cease and desist is an adequate remedy in this case.

MR. LINDSEY: I like that.

MS. GHAZAL: Okay.

MR. FERVIER: We have a request to amend the motion to add a cease-and-desist order as an appropriate remedy to the case.

Member Lindsey, it was your motion. Would you accept that amendment?

MR. LINDSEY: Yeah, I'll accept the amendment.

MR. FERVIER: We have an amended motion to refer this to the Attorney General for further action with the recommendation a cease-and-desist order being the appropriate action. Do we have a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a second. Any discussion? Hearing no discussion, all those in favor of referring case SEB2022-036, Clarke County false ID card to the Attorney General for further action with the recommendation that a cease-and-desist order be added or be the appropriate action signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the motion passes four to zero.

SEB case 2022-047, Rockdale County Durand qualifying issue has been continued to the next board meeting.

The next case on the agenda is SEB2022-138 Chatham County miscellaneous. Is there a respondent here from Chatham County? No? Okay.

Investigators, please.

MR. BRUNSON: A citizen by the name of Gregory Olson(ph) alleged that he sent an absentee ballot application for his wife Robin Olson, his father-in-law Robert Conklin, and himself for the June 21, 2022, general primary runoff election. Mr. Olson received his ballot but alleges his wife never received her ballot and his father-in-law did not receive his ballot in a timely manner.

The investigator spoke with Mr. Olson who stated he requested an absentee ballot for himself for that election. All three applications were sent on the same day: May 11, 2022. Mr. Olson received his ballot June 16th, more than a month after requesting. Mrs. Olson never received her ballot and Mr. Conklin received his ballot on the day of the election which did not give him any time to send it back. Mr. Olson was able to send his back in time to have it counted.

Mr. Conklin's ballot was sent to their home address instead of the temporary address which was then forwarded to the temporary address by the postal service. Mr. Olson checked on the status of his wife's application and it appeared

that the elections office never received it. He indicated that he has had problems with the postal service losing mail and that it's very likely they lost her application.

The investigator spoke with Mrs. Olson and Mr. Conklin who verified that Mr. Olson sent their absentee ballot applications by mail to the Chatham County elections office. Mrs. Olson advised she did not receive her ballot just as her husband stated.

The investigator later spoke with Chatham County chief registrar Sabrina German who stated the absentee ballot clerk who processed the absentee ballot is no longer with the Chatham County registrars office. She wrote a note on the side of Mr. Conklin's absentee ballot application for the June 21, 2022, general primary runoff indicating that it was already processed.

Mrs. German believes this was an oversight on their behalf as the ballot was sent to the same address as the previous absentee ballot. Mrs. German did not receive an absentee ballot application for Ms. Olson for the June 21, 2022, general primary runoff, so a ballot was never

sent to her.

Mrs. German provided investigator the copy of Mr. Olson and Mr. Conklin's absentee ballot applications from the May 24, 2022, general primary election and the applications for the June 21, 2022, general primary runoff election.

A search of GARViS by the investigator revealed that Gregory Olson requested a ballot on May 11, 2022, as stated. The ballot was issued on June 10, 2022, almost a month after the request was made. Robert Conklin requested a ballot on March 30, 2022, and the ballot was issued on June 10, 2022. Mr. Olson and Mr. Conklin's ballot were not sent within three days, violating O.C.G.A. 21-2-384(2) regarding mailing of ballots.

MR. FERVIER: Once again is there a respondent here from Chatham County?

Are there questions from the board?

MR. LINDSEY: Well, first off a comment. Unfortunately we also don't have jurisdiction over the U.S. Postal Service, but it would be nice if we did sometimes.

Were the people able to vote that they didn't get their absentee ballots? Do you know

whether or not they actually --

(Cross-talking)

MR. BRUNSON: The one was able to vote.

MR. LINDSEY: The what? The what?

MR. BRUNSON: The complainant was able to vote. The father-in-law was not able to vote. And then the -- his wife never received anything. There was no record of anything being sent.

MR. LINDSEY: I understand but do you know whether or not she was able to vote or not?

MR. BRUNSON: No, she was not.

MR. LINDSEY: So those two -- those two were not able to by virt -- well, there's a question as to whether or not Chatham County got the --

MR. BRUNSON: Yes.

MR. LINDSEY: -- the third --

MR. BRUNSON: There's no record of it whatsoever.

MR. LINDSEY: But as to the second one, there's no question that they got it. They just didn't get it back to the man in time and as a result he was denied his abil -- his right to vote, his ability --

MR. BRUNSON: Correct.

MR. LINDSEY: Okay. All right.

MR. FERVIER: Any other question --

MR. LINDSEY: My comm -- my comment there is that, you know, when a -- when a -- election officials make a mistake, but it's still -- we still see someone's right to vote not being fringed upon, I think we -- we primarily work toward remedial efforts and make sure that mistakes don't happen again. But when someone is actually denied their right to vote that becomes a little more serious matter for us to be concerned about.

Do we -- did we -- Chatham County isn't here, also I might add, to basically explain to us how they fixed this problem so it wouldn't happen again -- I'll point that out -- even though they were invited. I want to make sure no one from Chatham is here. And so that's -- that -- so -- so we don't know whether or not they -- they're -- what type of steps they've undertaken to make sure.

MR. BRUNSON: It looks like that clerk is no longer an employee --

(Cross-talking)

MR. LINDSEY: Yeah, I appreciate that, but I'd like to make sure that they -- that -- that

otherwise necessary remedial steps have been undertaken. And that's one reason why we encourage them to come and we try to work things out immediately rather than send it to the Attorney General. But when we don't have a county showing up to sort of talk to us about how they have worked to fix problems, that leaves us with -- with fewer options here, except for a more harsh one.

Just want to point that out. We have a lot of folks from counties around the state who watch in on this and that's the lesson I want to make sure they understand. If there's a mistake that's been made, if you come here and you -- and you -- and you -- before coming here you have taken the necessary steps to correct a problem, we -- we're more willing to work with you.

But if you don't show up to reassure us that this sort of thing won't happen again, we're left with no other option but to send it to the Attorney General.

So at the appropriate time.

DR. JOHNSTON: Perhaps Mr. Lindsey would make a motion to continue this and subpoena Chatham -- Chatham County.

MR. LINDSEY: Chatham County was -- weren't they notified?

MS. HARDIN: Yeah.

MR. LINDSEY: They've already been notified.

MS. HARDIN: The board of election and the board of registrars.

MR. LINDSEY: Yeah. They -- they were already on notice to come.

DR. JOHNSTON: But were they subpoenaed?

MR. LINDSEY: They didn't have to be subpoenaed. They were notified that they -- there was an action against them, that they had the right to come. A subpoena is not necessary in this situation for us to send them on to the Attorney General. They are the respondent, right?

MS. HARDIN: Yes.

MR. LINDSEY: It's not the clerk that's the respondent. The county's the respondent.

At the appropriate time, Mr. Chairman.

MR. FERVIER: Any other questions from the board? The board will entertain a motion.

MR. LINDSEY: Move to refer the matter to the Attorney General's Office for further action.

MR. FERVIER: We have a motion from member

Lindsey to refer this case to -- case number SEB2022-138 to the Attorney General for further action. Is there a second?

MS. GHAZAL: Second.

MR. FERVIER: We have a motion and a second. Any discussion? Hearing no discussion, all those in favor of sending SEB2022-138 Chatham County to the Attorney General's Office for further investigation signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the motion carries four to zero.

The next item on the agenda is SEB2022-186, Grady County challenged votes. It's tab number 40.

MS. KOTH: The complainant filed a written challenge against an elector with the Grady County Board of Registrars Office. The complainant alleged that respondent Brandon Phillips(ph) had not lived at the residence he was registered at for the last two years. She reported the residence was sold on April 26, 2021.

The complainant states the respondent voted in two elections after the residence was sold and

he failed to submit a change of address to the registrars office. She advised the Grady County Registrars Office did not set up a hearing but they contacted the respondent and he submitted a change of address to a residence within Grady County.

The complainant provided a letter to the chief registrar challenging the respondent's voter registration status. She alleged that the respondent resides in Tallahassee, Florida and that he voted in the May 24, 2022, general election and the June 21, 2022, general primary election runoff in Georgia.

An ENet inquiry revealed that the respondent did vote in person for the May 24, 2022, and the June 21, 2022, general primary election runoff in Georgia. The investigator found through the tax assessor records that the respondent purchased the home he is currently registered at on August 2, 2022, for zero dollars. The search of the Florida voter records show that the respondent is not a registered voter in Florida.

The chief registrar contacted the respondent and he advised him that if he did not live at his current registered address, then he needed to

change it. The respondent changed his registration from West Broad Street to Duncan Road, both within Grady County.

The investigator requested a copy of the board minutes where they discussed the challenge and was advised that the meeting was not recorded. The chief registrar said she did not deny the challenge and she did not feel a need to proceed because the respondent changed his address. The chief registrar acknowledged that she was aware of the election code regarding the right of an elector to challenge another elector.

The investigator attempted numerous times to contact -- by phone call, e-mail, certified letter, and physically went to the house -- the respondent with negative results.

Potential violations are for Grady County chief registrar, Grady County Board of Registrars that there's evidence to suggest O.C.G.A. 21-2-29[sic]. And then Brandon Phillips there's evidence to suggest he violated O.C.G.A. 21-2-218(c).

MR. FERVIER: Are there respondents here from Grady County Office of the Registrar or the board of registrars. Or is Brandon Phillips here

to respond?

Seeing no respondents, are there questions from the board?

MR. LINDSEY: Same issue as before. And let me also -- to make sure folks understand. We have worked very hard over the last two and half, three years to become more of a collaborative body with our county election boards, to not just be the ones to impose a stick but to also -- to work with them to make sure that the next -- that -- that past mistakes are rectified and -- and -- and then put into place the proper procedures.

When we don't have folks come and talk to us about how they have fixed problems, it leaves us little other alternative.

MR. FERVIER: Are there any other questions from the board?

MS. GHAZAL: I wanted to just make a real quick clarification. One of the respondents is -- is the voter, Mr. Phillips; correct?

MS. KOTH: Yes.

MS. GHAZAL: And it was discovered through the investigation that Mr. Phillips simply moved within the county; is that correct?

MS. KOTH: Yes. He does not live in Florida.

MS. GHAZAL: Correct, okay. Then I would -- I would split -- I would have -- have two motions. At the appropriate time I would move that we issue a letter of instruction to Mr. Phillips because he was still allowed to vote throughout -- even when his registration was his previous address.

So he -- he failed to update his address, but he was still allowed to vote in person because he was within the same jurisdiction. So I would move that in the case of Mr. Phillips that we issue a letter of instruction as a respondent and not refer Mr. Phillips to the -- to the Attorney General's Office.

MR. LINDSEY: Within the same jurisdiction can still oftentimes lead to you having different people to vote for.

MS. GHAZAL: Correct. Correct. Which is why I would not dismiss. I would issue a letter of instruction.

MR. LINDSEY: And if I lived across the street, I'd vote in a different congressional district than the one I'm voting in, for

instance.

MS. GHAZAL: I think that is --

MR. FERVIER: Are there --

MS. GHAZAL: -- that is a -- that is something that I wish -- that I would hope our counties and our state would publicize the -- the requirement to reregister when you move even if it is simply across the street, much better. But you do not lose the right to vote when you move within your jurisdiction.

MR. FERVIER: Are there any other comments from the board or questions from the board?

MR. LINDSEY: I'm wrestling with it, to be candid with you. I'd love to hear from some of the other people because a part of me agrees with you but part of me also goes by virtue of wherever they moved to, they could potentially have voted in a race that they did not have a right to vote in and therefore they would be canceling out somebody else's vote potentially as a result of that.

So I don't know. But on the same token, I hear you, they did have a right to vote in Georgia.

MS. GHAZAL: Yeah, yeah.

MR. LINDSEY: But they may not have had the right to vote in some of the races that they voted in. And I -- to be candid with you, I'm going back and forth. I would love to hear from -- I know we've got Rick on the phone and we have Jan as well. I'd love to hear their thoughts as well.

MR. FERVIER: Would you -- would you consider sending it to the A.G. with the recommendation for a letter of reprimand for Mr. Phillips?

MS. GHAZAL: We have the authority to issue letters of reprimand.

MR. LINDSEY: Yeah. At a minimum I want to send a letter of reprimand. Yeah, I could go along with that.

MR. FERVIER: Member Johnston, comments or questions?

DR. JOHNSTON: Well, moving within a jurisdiction is -- is a reasonable allowance, but certainly moving out of a jurisdiction requires reregistration or updating the voter registration. I -- I was under the impression that the respondent actually did live in Tallahassee, so I probably misread the -- the

investigative report in that -- that the registrar just made up an address within the same jurisdiction.

So if -- if he stayed within the jurisdiction, I'd say a letter of reprimand would be appropriate.

MR. LINDSEY: I'll make that motion.

MR. FERVIER: Any further questions or comments from the board? The chair will entertain a motion.

MR. LINDSEY: As to the Grady County, I move to -- to refer that to the Attorney General's Office. And as to -- if I can do it all at the same time, as to the individual voter, I move for a letter of --

MR. FERVIER: Let's do this in two different motions.

MR. LINDSEY: Yeah. Yeah. Move -- move to refer the -- the county to the -- to the Attorney General's Office.

MR. FERVIER: We have a motion to refer the Grady County to the Attorney General for further action. Is there a second?

MS. GHAZAL: Second.

MR. FERVIER: We have a motion and a second

to refer Grady County to the Attorney General for further action. Any discussion? Hearing no discussion, all those in favor of referring to -- Grady County to the Attorney General for further action on SEB2022-186 signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the motion carries four to zero.

The chair will entertain another motion.

MR. LINDSEY: As to the individual voter, I'd move for a letter of reprimand.

MR. FERVIER: We have a motion to send a letter of reprimand to Brandon Phillips relating to SEB2022-186. Is there a second?

MR. JEFFRIES: Second.

MR. FERVIER: We have a motion and a second to send a letter of reprimand to SEB -- I mean to Brandon Phillips, relating to SEB2022-186. Any discussion? Hearing no discussion, all those in favor signify saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the motion carries four to zero.

MR. COAN: Everybody hears him saying aye, so it's working pretty good.

MR. FERVIER: The next case on our agenda is SEB2022-211, Fulton County, absentee ballot fraud.

Mr. Investigator.

MR. BRUNSON: The Secretary of State's Office initiated this investigation after it received a complaint from Jessica Danielle Sibley, alleging that someone received and completed an absentee ballot in her name for the May 2022 general primary, a potential violation of Official Code of Georgia Annotated 21-2-596.

On or about September 9, 2022, we received this complaint alleging what I previously stated. She's concerned that someone had used her name to fraudulently cast a vote. Complainant indicated she received excessive phone calls, text messages, and mail from political parties about voting. She then went online to her My Voter Page and realized that someone had cast a vote in her name. The complainant stated that she did not vote in the May 2022 general primary.

Fulton County Department of Registration and Elections checked into the matter and sent a copy of Jessica Sibley's application for in-person absentee ballot from May 16, 2022, for the

May 24, 2022, election to the investigator.

This voter has a date of birth of June 27, 1984, and an address of 525 Park Drive, Northeast, Atlanta. The complainant has a date of birth of May 15, 1987, and a different address. Both have different middle names. The application for in-person absentee ballot presented at the Ponce library polling place on May 16, 2022, was approved and verified with the incorrect voter registration number by Carisha(ph) Bush.

The investigation found sufficient evidence to suggest that the election official erred and gave credit for the vote to the wrong Jessica Danielle Sibley instead of the correct voter Jessica Larette(ph) Sibley. Based on the information provided on the application and the signature, no findings that voter fraud had occurred.

So the potential violation is SEB Rule 183-1-12-.11 regarding conducting elections which stipulates that when a person presents himself or herself at the polling place for the purpose of voting during the time during which polls are open for voting, the person shall complete a

voter certificate and submit it to the poll officer. The poll officer shall verify the identity of the person and that that person is a registered voter of the precinct, and if so, shall approve the voter certificate and enter an appropriate designation, et cetera, et cetera. So ...

MR. FERVIER: Respondents, please.

MS. BRUMBAUGH: Thank you. Yes. Again the facts really are not in dispute here. The only thing I would add is that this arose in a situation in which the technology was not working and the poll worker was forced to use a paper spreadsheet. And so she saw Jessica, I guess, Marcus Sibley and -- anyway, she just accidentally checked the wrong person off.

It was a mistake. She has submitted -- as he stated, she's taken responsibility, submitted a letter of apology. This was a one-off situation. It's not a -- indicative of a trend or a pattern. It's not fraud.

The poll worker has been counseled, you know, and so we just -- we certainly appreciate and share this board's concerns about getting these things right. And no one wants this to

happen. And hopefully there won't be any technical difficulties because I think absent that, absent having to look at small -- small lines and little text, this would not have happened. So we will just refer -- or defer to your judgment as to what -- what your -- what your pleasure is.

MR. FERVIER: And do you know of any other mistakes made by this individual?

MS. BRUMBAUGH: I do not. And I don't know of any other similar -- I asked as part of my research for -- for this morning. You know, is this a pattern or a problem? And no.

MR. FERVIER: How long has she been employed as a poll worker?

MS. BRUMBAUGH: Unfortunately I didn't ask that question. I think she still is working. I'm not sure if she's working this election but she has been counseled regar -- that's part of the policy when a -- when a poll worker makes a mistake, the poll worker is brought -- unless they're disciplined, unless they're fired. But if it's a situation where it's something they can learn from, the poll worker is brought in and the poll worker is counseled and turn it into a

learning experience.

MR. FERVIER: Did she readily admit to her mistake?

MS. BRUMBAUGH: She did.

DR. JOHNSTON: Mr. Chair, I have a -- I have a question --

MS. BRUMBAUGH: Sure.

DR. JOHNSTON: -- Fulton County. How -- I -- I recall the -- a spreadsheet was required to be used for that election, and it -- actually was it a paper spreadsheet or on a computer?

MS. BRUMBAUGH: Well, I can just quote you the statement from the advance voting trainer. He says: We were forced to process many voters manually, using the provided voter list in Excel format from the Fulton County via jump drive. Each clerk was required to look up the voter manual on the -- manually, excuse me, on the Excel spreadsheet.

DR. JOHNSTON: Correct. So, yeah, it -- it was on a laptop, I believe --

MS. BRUMBAUGH: Okay.

DR. JOHNSTON: -- for that election. And so they had to look up each one which was quite tedious and would be subject to sort of picking

the wrong one and they had to find the right combination code and such. But I can't figure out how Sibley and Bush -- they're not even close in the alphabet, were the voter registra -- were -- how were they next to each other that this poll worker could --

MS. BRUMBAUGH: No, Bush -- Bush -- Bush made the mistake. Bush is the poll worker --

DR. JOHNSTON: Oh, I'm sorry.

MS. BRUMBAUGH: -- who made the mistake.

MR. BRUNSON: Yeah. They have the same name.

MS. BRUMBAUGH: There were two women named Jessica Sibley.

MR. BRUNSON: Yeah.

DR. JOHNSTON: Oh, oh, oh, okay.

MS. BRUMBAUGH: And they --

MR. BRUNSON: (indiscernible) --

DR. JOHNSTON: They were next to each other.

MS. BRUMBAUGH: They gave the credit to the wrong Jessica Sibley, so, yeah.

DR. JOHNSTON: Thank you.

MR. FERVIER: Are there any questions from the board?

MR. LINDSEY: Well, by contrast to the

others that didn't show up, that didn't explain, that didn't demonstrate that certain remedial action had been taken, in this particular case they did show up, they did sort of go through the remedial action. So the -- the -- my -- my -- I'm debating between a letter of instruction and a -- and a reprimand.

Did -- did anyone -- was anyone -- no one was denied the ability to vote; correct?

MS. BRUMBAUGH: No because apparently the woman whose -- the woman who got credit for voting, according to the investigators, didn't ever want to vote. So, no, I don't think anybody lost their ability to vote. It's not like that woman showed up and wanted to vote.

MR. BRUNSON: Yeah.

MS. BRUMBAUGH: She got contacted after the fact.

MR. BRUNSON: She checked her page and saw that there was credit for voting there. She didn't vote in the election herself.

MR. LINDSEY: That's -- that's -- thank you for that. I remember that now.

I would do a letter of instruction, Mr. Chairman. And --

MR. FERVIER: I want to make a comment that overprosecution is a problem in this country, and someone who admits to a mistake, makes an error like that should not be prosecuted if they're trained and accepted responsibility for their actions.

MR. LINDSEY: And for that matter -- for that reason, I think a letter of instruction would be sufficient. That's my motion.

DR. JOHNSTON: Second.

MR. FERVIER: The chair's received a motion from member Lindsey to give a letter of instruction. There was a second by member Johnston. Any discussion? Hearing no discussion, all those in favor of sending a letter of instructions signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the motion passes by a four-to-zero vote.

And that concludes Day 1 of our agenda. The chair has received a request for a twenty -- 20-minute recess to handle personal business. Without dissent, the chair will move to recess for the next 20 minutes. We shall return at --

well, let's make it 11:10. We'll return at 11:10 which is just slightly longer than 20 minutes to handle our business. Thank you.

(Recess)

(In progress)

MR. FERVIER: Promulgation of State Election Board Rule presented by Bridget Thorne. And I think that what we will do is ask the petitioners to speak about 15 minutes max and tell us why this rule is needed and proposed. And then we will open it up to questions and comments from the board.

PETITION FOR PROMULGATION OF STATE ELECTION BOARD RULE (BRIDGET THORNE)

MS. THORNE: I am Fulton County Commissioner Bridget Thorne, but today I come to you as a private citizen, a former nine-year Fulton County manager -- election manager and as an advocate for election integrity on a statewide level.

I -- my rule here is to build trust, trust in our elections, which is lacking, especially in Fulton County, the county that I represent. In my nine-year history, I've seen a lot of reasons to lose trust.

My main concern is that the county board of

registrations and elections have a very, very important role. They provide the oversight of our elections. Georgia Code 21-2-70 says they have the critical duty to inspect systematically and thoroughly the conduct of the elections. It goes on to say their duty is to receive from the poll officers the returns of all primaries and elections, to canvass and compute the same, and to certify the results therefor of such authority as may be prescribed by law.

But it seems in Fulton County we are seeing that the board is just -- their duty to sign off, it's their ministerial duty to sign off on election results. But a common sense rule like this one would require that they have to check the number of ballots and the number of voters and the two must be equal. As if anyone checks their checkbook, you have to have things even.

But in Fulton County, it seems like that's not a necessity. We'll figure it out later or we may never figure it out at all.

Let's go through just a brief history of Fulton County. You guys discussed November of 2020 where 3,000 ballots were double-scanned. If you have a law in place, maybe you wouldn't just

be finding out that there was over 3,000 ballots double-scanned. Maybe you would've found it out on the day that they -- they were scanning those ballots that the numbers were off.

In November of 2020, in hindsight, looking back, a majority of the board would not have certified that election, looking back. I want to repeat: three out of five members of the board of a -- Fulton County board of elections would not have certified the November 2020 election had they had materials prior to certification.

I want to go on to the January 2021 election. They had to recertify that election on January 18th. Dominic Olomo forgot to upload results from Milton MLO1(a) and MLO1(b) precincts. Well, it didn't change the outcome of the election. It was just a mistake. But maybe that would've been found prior to the election and not require recertification two weeks later.

In November of 2021, a municipal election, they had to recertify that election as well. It was a small amount. It was a small election, but they had to recertify because they found more -- more votes somewhere.

In May of 2022, you guys sent them a

reprimand because they failed to upload 1300 votes. Maybe if they had looked, if they had checked the number of voters with the number of ballots, they wouldn't have to recertify.

Let's go on to November. This most recent November municipal election, 2023. They knew it was a close race, so they did everything beforehand. They had to recount beforehand and they came up with a different number. So they basically did it on the front end of going ahead and doing a recount before certification. But who says which -- which count was the right one? Was it the election day count? Or was it the -- the rescanned account?

And by the way they lost a box of ballots in -- forgot to -- and they had to rescan again and delay their certification.

A frustrating thing to me is that the Democrat party -- an attorney for the Democrat Party sent out letters to several counties in the state of Georgia telling them that it is just their ministerial duty to approve whatever results are presented for them.

In March of this year, two BRE members in Fulton County requested documentation before they

certify so they can accurately project if this -- that they have the equal number of ballots with an equal number of voters. And they were denied. They were told they'd have to pass some new bylaws, that they don't do it this way, which is ridiculous.

So I propose new rules in pursuit of the rule 183-1-1.01, to adopt these new rules that will enable the board to have the materials to properly canvass and look at all the returns. Before they compute any votes, they must compare the number of unique voters who participated and the number of ballots cast for each precinct prior to time of certification.

The county has a list of all people who voted absentee, advance voting, and in person on election day and provisionally. So the board should have these numbers, these figures before they certify their elections.

If the number of votes for candidates exceeds the total number of people who voted in a precinct, that discrepancy must be examined by the board. In fact, the law says that no votes from any pre -- that precinct can be recorded until the discrepancy is first investigated.

So I'm just asking that you guys will adopt a rule that will go through and make sure that discrepancies are solved on the front end before certification instead of four years later trying to rectify a situation and the board has no control over it.

I also would like to add we need accountability. And, Mr. Lindsey, in the newspaper they quoted you saying that you wanted to bring trust and accountability. I feel like this rule will give the citizens the trust in Fulton County which is very much needed.

That's all I have to say. Thank you.

MR. FERVIER: Thank you, Ms. Thorne. I -- you know, I struggle a little bit with this rule the way it's written because I -- I don't want our board to exceed what the legislature has put into the statute. And I agree with you that nobody should be forced to certify something unless they've had the documents to -- to look at first. You know, I mean, it's -- it's ridiculous to ask somebody to certify something when they don't know what the -- what the results were, you know? Except for some numbers that were provided them.

I -- I just have concerns on whether -- and maybe the other board members can speak to this, whether this exceeds what the statute allows and whether it just needs some work to make sure that it's within the statute, you know, what's allowed by statute. And I -- and that's my concern.

MS. THORNE: And -- and my concern too, which I didn't mention, is as a -- in my commissioner role when our director was an interim director and we were looking at hiring her for a director, so very early on, I sat down with her and talked about why are we constantly recertifying elections? Like why can't we get it straight right away? And her response was, to me, like, that's the normal course, that's normally what you do.

So for me that was, okay, we have to do something here to correct this. This should not be the way. It shouldn't be that you post results and then two weeks later have to come back and recertify results.

MR. FERVIER: Yes, the normal course isn't always the right way. I -- I do stand on my comment though. I want to make -- this board should never get in front of the legislature and

do more than what the legislature has put in the statute. And I just want to make sure that before we adopt rules that they are within our -- the guidelines with the statute that allows for. So that's my -- my only comment. So ...

Are there any comments from the -- or questions from the board?

MR. LINDSEY: (Off microphone) Yeah. A concern that was raised by the -- the county election board superintendents that was -- that was said to us was that the proposal given that Thursday --

UNIDENTIFIED SPEAKER: I can't hear you.

UNIDENTIFIED SPEAKER: Use the mic, please.

MR. LINDSEY: I'm sorry. You're absolutely right. My apologies.

You know, we did get some input from the -- the county election board superintendents made up of everyone in the state, and it's technical but its important issue is that, you know, by requiring the deadline as of Thursday at 3 p.m., you -- you -- you run counter to both the federal and the state law which requires the processing and acceptance of provisional ballots until 5 p.m. on Friday.

So that's -- that's an issue that we're going to have to deal with when it comes to your -- your proposal. So I'm -- I'm reading over the thing.

MS. THORNE: Well --

MR. LINDSEY: I want to --

MS. THORNE: I'm sorry.

MR. LINDSEY: Let me go ahead and read it to you. (reading): The author of the proposal rule seems to be -- this is their words, not mine, seems to be unaware that ballots can be returned and cured as well as process and accept provisional ballots until 5 p.m. on the Friday after the election. Meeting prior to that to go over precinct results would potentially ignore legally cast votes -- ballots.

(reading): We check to ensure a ballot has not been issued to the unique voter ID at the time we issue ballots and routinely investigate small discrepancies prior to certification meetings. Also ballots are counted at election day polling places and the results of those ballots are tabulated and released on election night, not counting those votes until the board meets would contradict with multiple code

sections.

So, you know, that's -- that's their ...

MS. THORNE: And they're talking about ballots. They're not talking about voters. The KNOWiNK poll pad keeps a list of every voter that comes in. It's uploaded immediately to the Secretary of State so your My Voter Page could be updated, which you need on the ballot side. Yeah, sure, you can count the ballots. That's what they're doing. But you've got to count the voters marked as well, which they're not doing. They're not reporting the voters marked.

You can -- in a primary, immediately on a poll pad, you can go and check how many Democrat voters have voted and it lists their names, how many Republicans, and you can do a blanket list with both.

And it's not contrary to a statute because by 10 p.m. on the close of the polls the day of the primary election -- this is 21-2-421 -- they must report the number of ballots cast at the polls on election day, the number of ballots cast in advance voting, and the number of absentee ballots cast as well.

MR. LINDSEY: Yeah, but you still have the

provisional.

MS. THORNE: And the provi -- the provisional's a -- and you have UOCAVA, that might trickle in. But mainly those votes will trickle but they're not a lot. They're not -- they're a very small number.

MR. LINDSEY: Yeah. I -- I agree with you. The principle of what you're trying to do is make sure that before certification that you match ballots with -- with voters who -- who voted. I'm just trying to figure out the technicality in -- the tech -- the technical aspects of the ballot.

MS. THORNE: And maybe, you know, an exception for provisional --

MR. LINDSEY: Yeah.

MS. THORNE: -- and UOCAVA ballots that come in that need to be cured.

MR. LINDSEY: Yeah.

MR. FERVIER: I -- I almost think it might be a better procedure going forward for anybody who wants to have a proposal for a rules change to work beforehand with a member of the board to see what some concerns we might have, potential, and work through those before the meeting and,

you know, eliminate some of the -- some of this.

MS. THORNE: Yeah. I worked with -- with our board, our -- Vernetta Nuriddin is a Democrat who's a former longtime election board member.

MR. LINDSEY: Yeah.

MS. GHAZAL: And she withdrew her name from this.

MS. THORNE: And withdrew her name, yes. She wanted some tweaking of the language, last minute. I -- actually I haven't talked to her. I've been in D.C., so it was a whirlwind. I flew in this morning.

MS. GHAZAL: So I'm very concerned that there are suggestions that entire precincts should be eliminated from certification in this -- in this draft.

MS. THORNE: It --

MS. GHAZAL: It is --

MS. THORNE: If there's a discrepancy.

MS. GHAZAL: It violates federal law. It also violates state law because section 1 says: If any error or fraud is discovered, the superintendent shall compute and certify the votes justly, regard -- regardless of any fraudulent or erroneous returns presented to him

or her and shall report the facts to the appropriate district attorney for action.

The proper venue for resolving discrepancies and fraud is a -- is an election contest in the court. It is not through the certification process. And federal law 52 U.S.C. 10307 lists as a prohibited fact: No person acting under color of law shall fail or refuse to permit any person to vote who's entitled to vote or willfully fail or refuse to tabulate, count, and report such person's vote.

That is a criminal act to refuse to certify valid votes. If there is a discrepancy of two votes in a precinct and this rule -- if you can't identify exactly what that discrepancy is, this rule would suggest that the entire precinct be disregarded and not counted for certification.

MS. THORNE: Well, you wouldn't certify the entire election until everything is investigated.

MS. GHAZAL: If there are two votes --

MS. THORNE: Not just one precinct.

MS. GHAZAL: And your failing to certify the entire election means that you are discarding 500 to 600,000 votes when there is a discrepancy of two that may -- that would not impact the

outcome. Where there has been a discrepancy of one or two votes, we have seen election contests overturn those elections and they have been run again. And that is the appropriate method of challenging even a handful of votes. It's been done in Georgia. It's been done -- we had one election that was run three times and it was appropriately overturned through the courts, not through the certification system. That is not what certification is about.

MS. THORNE: So my hope is to reel in the blatant Fulton County not running their elections correctly. In an absentee voting area, maybe if they have to account for discrepancies when they run the absentee ballots, it won't be a question that oh, we accidentally scanned -- double-scanned 3,000 ballots. That's 3,000 votes that were possibly counted that could've been caught right there, that night if they just matched the number of voters that they had marked off and the number of votes they scanned. Instead we're four years later, talking about this and trying to reconcile this. And 3,000 people were disenfranchised. My vote was probably disenfranchised because somebody else

voted twice.

UNIDENTIFIED SPEAKER: No one voted twice.

MS. THORNE: And it also says by state law --

MR. FERVIER: Ms. Thorne --

MS. THORNE: -- that temp workers should not be touching ballots. It says permanent workers.

MS. GHAZAL: I'm sorry how does that relate to this petition?

MS. THORNE: It relates to this petition because Fulton County is using unqualified trained temp workers that are doing their counting and their tabulation as well which leads to errors because temp workers come in, they come and go, they're hourly workers, and I feel like we need some kind of control over the process. There is no control over the process in the warehouse in Fulton County. That's why they had to recount the recount in November in a municipal election.

DR. JOHNSTON: Mr. Chair.

I like the -- I like the idea of this rule and the premise that there's some basic ballot accounting that needs to occur with every election in every county in Georgia.

Accounting rules must be followed. HAVA -- when HAVA was written -- Help America Vote Act -- Harry Hersey was asked his opinion as an expert on how to design the -- the requirements for ballot accounting, especially with electronic voting. And he used the principles that are used in banking. He used chain of custody, dual control, and an audit trail.

So it's -- it's only reasonable and logical that we would have a -- have a rule that would -- would outline these processes. And part of the canvass is to make sure the numbers are correct, that the -- that they -- that voters that checked in equals the number of ballots cast equals the number of votes counted. It's just a simple mathematical problem and it shouldn't be hard to solve.

And it should be -- and there's a reasonable amount of time. I know we have a short certification time but certainly by Thursday with accepting UOCAVA and provisional ballots that are due by Friday after an election, all the other vote totals, ballots cast, numbered voters should be -- should be available for review, for confirmation, and for correction. It's a great

idea, and whether it's a small county or the largest county in the state.

So, you know, I don't think it's asking too much of a county to provide these and nor do I think it's asking too much to have the canvass board, which should include the board of registration and elections persons to be a part of that canvass team. There must be a canvass team that's looking and checking and double checking and making sure that all of the numbers match.

This is not -- I'm not talking about fraud. I'm talking about basic ballot accounting. Basic accounting. So I think this is a reasonable rule and I would -- you know, I would recommend that a rule such as this would -- if it's voted on favorably, then it would go to legislative counsel for proper wording to -- to put it in the perspective as far as a legal rule that would be included for a State Election Board rule.

MS. THORNE: I would like to comment. In 2022, I had conversation with Ryan Germany and he told me that there are counties out there that do already do this. He explained that Richmond County was off by one voter and one ballot and

they were searching and searching because they wanted it to be perfect. I don't know if they ever found the one voter, but there are counties that do this. It's just really reeling in some of the counties that ignore trying to match up the number of voters with the number of ballots.

MS. GHAZAL: The legislature has really expressed its desire for -- for certification at the county level to happen as quickly as possible. They moved up the deadline in SB202. And they moved up the reconciliation deadline from two months to one month. The counties have been given by the legislature one month to provide that reconciliation on a precinct-by-precinct basis. To require it two days after the election is contrary to the legislative will that has been expressed in our laws.

DR. JOHNSTON: Well, the -- the documents I think that commissioner Thor -- or Ms. Thorne is talking about are documents that are -- that are already there at the close of the election. They're the numbered voter list. They're the number on the BMDs or the scanners for the number of ballots cast and the totals from the memory

cards for the -- the votes counted. Those -- that -- those documents, that evidence are already there. So it's not like they have to wait so many days to find that. They -- they -- they're produced already at the close of the polls.

MR. FERVIER: What -- what documents do you receive when you have to certify an election?

MS. THORNE: Well, maybe our board of elections members here could answer what they've received because I haven't had to certify an election, but as a manager I fill -- I fill out ballot recap sheets with the number of voters on who voted on every machine, the number of ballots I turned in.

And on election day I have to count if there's any discrepancy. And you -- you fill out the provisional ballot recap sheet. So all that material is there as well as it should be in the KNOWiNK poll pads.

MR. LINDSEY: If there are folks who are on election boards present --

MS. THORNE: Would you like to speak?

MR. LINDSEY: -- do any of y'all want to say something?

(Cross-talking)

UNIDENTIFIED SPEAKER: We can't hear you.

MR. FERVIER: You have to speak into the mic.

MR. LINDSEY: I'm sorry. I'm not -- you're absolutely right and I do apologize. If there are members from the county election boards that are here that would like to comment on this, Mr. Chairman, I'd be more than happy to hear from them.

MR. FERVIER: I -- I would love to hear what documents you actually receive before you have to certify an election.

MS. ADAMS: It's an interesting time to be asking -- asking that. I'm Julie Adams. I'm a board member in Fulton County Board of Registrations and Elections.

I was sworn in in February, right during the PPP election and requested some documents. Basically I wanted to know who voted, where they voted, and how many ballots were cast as is in law for us to do before a certification.

It's been a -- I was denied that request. I have no special privileges as I've been told. And I got a summary of the statement of votes

cast which is a not very detailed report. It's a Dominion -- I believe it's a Dominion manufacture -- not manufactured but report. I also got a summary of the elections results which is -- does not tell me who voted where and when and how. It's a very nonspecific form.

And so it -- in my opinion, it's very hard to certify when you're not following the law in knowing who voted, where they voted, and how many ballots were cast.

DR. JOHNSTON: The Georgia Code says that the votes cast should be -- shall be provided in a statement of votes cast, SOVC, by precinct and by ballot type. Some counties do that and provide that, and it's an easy way to look at the numbers and see if -- if total numbers do or don't match.

Interestingly, there is an SOVC, a statement of votes cast, from election night in 2020 and they also -- and there was -- there's also a statement of votes cast from the recount of election -- of November 2020 for Fulton County. Only 10 percent of the precincts had the same number votes. 10 percent. So I've got a statement of votes cast on election night and a

statement of votes cast on a recount. And 90 percent of the precincts have different numbers by precinct of total votes. Explain that.

MS. GHAZAL: Well, I think part of that is because votes cast and ballots cast are different. And our system -- our election night system is not designed to report numbers of ballots cast. It will not report undervotes or blank ballots. Where we see --

DR. JOHNSTON: Well, I would hope -- I would hope the county would be using the same definition for -- for reporting -- for a whole report of statement of votes cast on this day and then a month later a statement of votes cast on this day unless they're changing the definitions.

MS. GHAZAL: Well, when you're -- when you're talking about having a postelection reconciliation and you have ballot review panels that, in fact, cure discrepancies for hand-marked ballots if it can't be read, that's why we have ballot review panels. And so that is -- that -- just in general.

But what the law allows is to compare numbers. The law does not -- it does not call

for comparing names and voters. It allows for numbers to be compared. That is precisely what 21-2-493(b) says, that the superintendent shall compare the numbers -- number of persons voted, who voted in each precinct, and the number of ballots cast. It does not call for doing comparisons of lists of voters.

DR. JOHNSTON: To the contrary, there's an enumerated or a numbered voter list that is required and produced at the end of voting on election day. And it is -- it is -- it does have name by name by name and it's -- today it's kept in the KNOWiNK poll pad and can be produced by KNOWiNK and it -- and it should be available. And it's actually one of the documents that is to be retained by the superintendent and the clerk of the court.

And it is -- it's not telling you who -- what they voted for or who they voted for. It's simply a list of the name of the voters. And -- and actually, you know, that's -- that's produced for political parties on a daily basis.

MR. FERVIER: Member Johnston, do you think that if the legislator -- legislature wanted them to have that list, they would address that issue

or -- I mean, that's going back to my original concern: are we trying to do something that is outside the scope of what the statute states? And I -- that where I'm confused. Are we trying to do something outside the scope of what the statute states, and I'm always concerned about that. So ...

I -- I don't disagree with you that it exists.

DR. JOHNSTON: Right.

MR. FERVIER: I don't disagree that they need information. The question is what is allowed by statute? And why I think that I have some sympathy for what you're asking for, but I want to make sure that this board always follows the statute. So ...

DR. JOHNSTON: I think it would be fair -- it -- it would be fair to say that for certification the board of elections would be provided the numbered voter list by -- by totals. But that list should be available to anyone that requests it to -- for comparison. And -- and actually the code says that that list should be reviewed to prevent double -- to look at -- make sure names are not duplicated on that list,

meaning that the list is -- is true and accurate. I don't think a board would be looking through thousands and thousands of names before Friday or -- or certification day, but it should be -- actually, it should be -- be kept and available and put in a format that doesn't allow any changing of that list.

There are famous cases of election irregularities where names were added to the bottom of the list. And so that snapshot of the numbered voter list should be made and set and not be allowed to change at the close of the polls on election day.

MS. ADAMS: And one would hope that that would -- that would create more transparency, but also problems with double voters or things like that, I think, would be important.

DR. JOHNSTON: And that list should be able -- should be comparable to looking at the petition to -- the whatever, the application to vote which now we're moving more and more electronically to -- to electronic sort of applications and -- and records. But that also should be reviewable.

And a voter certificate binder, the

old-fashioned notebook that had the list of all those applications. You probably remember that, Ms. Thorne.

MS. THORNE: Before the digital poll pad.

DR. JOHNSTON: Right.

MR. LINDSEY: Do we have any other county election board members here that would like to say something? I have two guys up here, standing, that look like they want to say something.

UNIDENTIFIED SPEAKER: Come on. Come (indiscernible) with us.

MR. FERVIER: I think they're just tired of sitting.

MR. HANCOCK: Good morning. My name is David Hancock. I'm a board member of Gwinnett County and I was -- been on the board about a year.

So this was my first chance at certification. And I -- I swore an oath to, you know, try to ensure that the elections were done accurately and fairly. And so when it came time to certify the election, we were given totals for number of voters.

Gwinnett is a large county also, as you

know. So we couldn't obviously go through and check everything. But I asked for some basic information. One of the things that happens on election night, we have a hundred and fifty-seven precincts and they all bring in their data and someone checks to make sure everything is in order.

And I asked to see just the check-in sheets. I asked to see a lot of information. And it -- it was kind of, I think -- I felt like it was a surprise, too, when I was asking for this but I was trying to make sure that to the best of my ability before I certify that this was an accurate and a fair election, I wanted to at least give, I'd say, a cursory glance. I can't look at 650,000 voters, but at least do a little due diligence. And I was told that a lot of it wasn't available and I could do an open records request to find it out.

So I did open record requests. I did about six of them. And I got them over the several days. But by the time the certification time to certify came up, I didn't have the information, I felt, just to get the basic information.

So I voted not to certify. And I got a

letter from the Democratic party as well. And the interesting thing was several days later they found some more ballots. So we were called back in to recertify. And I asked what is -- what is the point of certifying? If it's a ministerial task, if it's simply something that we come together and just say, Yep, certify, why even do that? Why is it in the law that that's a step to be done before the election was finished. So those are my --

MR. FERVIER: I'm -- I'm sorry, I'm stuck on an earlier comment you made. You were -- you asked for information from your elections division and they told you to do an open records request. And you sit on the board.

MR. HANCOCK: There's -- yes, sir.

MR. FERVIER: Okay.

MS. ADAMS: I've been told that as well.

MS. THORNE: And as a commissioner, I'm told to do open records requests.

MR. FERVIER: Okay.

MR. HANCOCK: And -- and I -- I was explained a legal reason which kind of made sense. So I mean, if you want to know it, I can tell you.

MR. FERVIER: I'd love to hear that reason.

MR. HANCOCK: The -- there's -- well, okay, I don't want to take up much time, but there's two really -- there's two positions outlined in the Georgia law, basic positions. One is sometimes called the director but it's called the supervisor of elections. One's called the superintendent of elections.

If you have a large county, you generally have a board if it's authorized by the state legislature. And that board consists of multiple people, three to five people. Our board has five members. So our board functions as the superintendent. So in the law it'll say the superintendent can do this, the superintendent can do that. I as a member am not the superintendent. It would require a majority of the board to vote to do something to be the superintendent.

Does that -- that's -- that was the explanation I was given which -- which is not a horrible explanation, I'll admit, but -- but Gwinnett County is very good -- on the record Gwinnett County, we're -- they're very good as far as answering my requests.

The supervisor there will respond to e-mails on Sunday afternoon if I send them. They're very good and very open. I can go anywhere I want to. I'm allowed to go in early voting and election day and go to visit polls and precincts and, you know, just make sure things are going smoothly. But in this case it was difficult to get the information in time for me to feel -- have a good feeling about certifying.

DR. JOHNSTON: So this -- this is, you know, canvassing and -- and what you're talking about. And what this rule pertains to is -- is all described in the Election Assistance Commission Report. Simply you could go to that and this is consistent with the EAC recommendation for canvassing.

And what it is is you're checking your work. So -- so you have your election, you have people come in and vote, and they signed their names and do this in and that and you get these totals. And so then you canvass the election. You're checking -- you're checking your totals. You're checking your work to make sure that you come up with the right sum at the end of -- end of the night or the week.

And so its -- it's very easy. I would refer you to -- to look to the EAC commission for -- for guidance --

MR. HANCOCK: And that's --

DR. JOHNSTON: -- for more information.

MR. HANCOCK: -- an excellent point, Dr. Johnston. That -- that is where I got some of my ideas from of what I wanted to see.

The law is very clear. Here's what you have to be to be a registered voter, here's how you have to open a polling place, here's how you have to vote, here's how you canvass, and then you certify. It's like -- the certification, there seems like a step in the chain.

I was talking -- I was watching a documentary on airplane crashes -- the first time this has probably been brought up at a state election board -- and they talked about the fact that there's really not a single point that you can say, This caused the crash. It's a chain. And if that chain is broken anywhere along there, there's -- you know, that's -- that's what -- that's what happens. If -- if it's broken, then the crash doesn't occur.

And the same thing with elections. If this

chain is solid all the way till the end until the results are announced, then you have a valid election. But if at any point in there there's a break in the chain, then there's questions about the election.

MS. GHAZAL: Let me ask this. If you were at your election headquarters as the returns were coming in, could you have seen those -- those checklists when they --

MR. HANCOCK: I tried.

MS. GHAZAL: -- when they were completed?

MR. HANCOCK: Not really. We -- we've got a table, we have, like, maybe eight or nine staff members. The parking lot was -- was backed up. I went out there and tried to comb -- the poll workers are coming in and trying to drop off their materials. And they waited sometimes for an hour and a half in the parking lot.

And so they were coming in and it was happening multiple stations at once. So I wasn't -- I -- I was able to stand in front of several. I saw several cases where it was only one poll worker. The one poll -- Yeah, I brought the ballots in by myself. And I said, That's -- you know, that's not -- that's not the way it

should be done. But I don't know what happened at other -- other locations when I was going there.

So are -- then those packets are put together and they're whisked away back into the back. So it would be difficult with a hundred and fifty-seven precincts for me to look at them all as they were coming in.

MS. GHAZAL: Sure. But do you understand what the legislature has -- has said over -- is required for certification?

MR. HANCOCK: No.

MS. GHAZAL: Because the law does -- the law is very clear. The legislature has written that showing the number of persons who voted in each precinct and the ballots cast, that is what -- what the legislature has dictated the superintendent shall review for certification.

And so the -- the risk is using pretextual reasons to fail to certify when folks are not pleased with the results. That is my concern is using excuses to fail to certify.

MS. THORNE: So you're saying we're dishonest by requiring this. We're using excuses, as your words. So anybody who supports

this is going to try to disenfranchise somebody. So you're thinking the negative of us. You're switching it, right? Is that correct?

MS. GHAZAL: I am saying that is my fear, that by allowing far beyond what the legislature has dictated should be the standards for certification, that as written by the legislature is -- is simply not something that we have the authority to do.

MS. THORNE: You have to turn in the voters -- the number of voters cast and the number of ballots cast, right? So we're just asking for that list on a precinct level. It's already written in the law. You just read it.

MS. GHAZAL: But it's also written in here that precincts shall not be included in certification if there's any discrepancy.

MS. THORNE: Correct. If you have more voters than ballots or more ballots than voters, you shouldn't -- you shouldn't certify.

MS. GHAZAL: So -- so a -- a precinct of 5,000 voters, all of them, should be disenfranchised --

MS. THORNE: Well, no, a precinct of 5,000 you're probably going to have a thousand -- or,

okay, election day, I have 4,000 voters in JC-13(a) and (b). I had a hundred and fifty voters. I can easily rectify where in the chain I lost a ballot or maybe someone checked in and had to vote provisionally. So I printed the ballot because, you know, Fulton County we had to keep the polls open. And so you can't put them in the normal tabulators. So I have to account for every ballot.

What we need is we needed it in every step of the election process. When you're processing absentee ballots, you should be processing them in batches, and you should be -- you should be doing an audit right there: Okay, I did a hundred -- I had a hundred voters checked, I have a hundred ballots here. Okay, we're good. Let's do the next hundred. There's no processes in place --

MS. GHAZAL: This is about certification.

MS. THORNE: -- or it doesn't force --

MS. GHAZAL: The rule is about certification.

MS. THORNE: And this --

MS. GHAZAL: And the rule would -- would allow for entire precincts to be discarded.

MS. THORNE: Well, you'd prefer 3,000 extra voters to disen -- disenfranchise 3,000 voters four years later. Is that what you would prefer? Because they didn't do a check? They didn't check to see how many votes they scanned or double-scanned that night.

Yeah.

MS. ADAMS: Can I? I -- I'm sorry.

MR. LINDSEY: Wait a minute. There's one more. He -- he hasn't spoken yet.

MS. ADAMS: I know --

MS. THORNE: Mr. --

MS. ADAMS: -- I just want --

MR. LINDSEY: (indiscernible) to take over --

MS. ADAMS: I just want to make --

MR. LINDSEY: Just -- just --

MS. ADAMS: -- a point on that. Based on the law, it is if the numbers don't match, you need to investigate to make sure the numbers are right before you upload those results.

So what -- what commissioner -- or -- I don't know what to call --

MS. THORNE: Just call me --

MS. ADAMS: -- Ms. Thorne. What she's

saying is that we would catch those problems beforehand. We're not talking about throwing out precincts. You know, honestly and truly, if the investigation was hard to find out why the numbers were wrong, a county might be late in certifying but they'd be a whole lot closer to being correct in returning accurate results.

UNIDENTIFIED SPEAKER: Correct.

MR. FERVIER: Ms. Thorne, I -- I have no idea how the board would vote on this. I -- I really don't. I'm -- I -- I -- my personal opinion is that this rule needs a little bit more work on it to make sure that it fully follows the -- the statute. And that it -- it's just not ready for prime time yet. But that's one board member's opinion.

MS. THORNE: Mr. Heekin's an attorney, so ...

MR. HEEKIN: To re -- reply to the question from the board early on, what do --

MR. LINDSEY: Your name, just --

MR. HEEKIN: Michael --

MR. LINDSEY: Just (indiscernible).

MR. HEEKIN: Michael Heekin, Fulton County Board of Elections. What do we want to see?

We're mindful of the fact it's a prec -- it's an incredibly short time frame. It's measured in hours between the close of polls and certification. So what we've asked for and unsuccessfully asked for are things like a ballot recap for the -- the votes. In that you would see how many people applied to vote, how many people had ballots printed -- I'm talking about DREs, the electronic, but there's similar -- how many applied to vote, how many people got ballots printed, how many people -- how many were scanned, and how many hit the tape? A equals B equals C equals D.

That's pretty -- that exists at midnight when polls close, okay. So in others words, we've got four and a half, five days to get that to the board, okay.

Another thing that we've asked for unsuccessfully is chain of custody documents. There are -- anybody who's been in business or has practiced criminal law or anything else or has dealt with schedule I drugs or -- or whatever knows what chain of custody is. In fact, I do too. This is my chain of custody from Fulton County Board of Elections for the -- the tablet

they gave me. Why did they make me sign a chain of custody? Because it's important to them that they don't lose that -- that tablet is accounted for.

So -- but unfortunately -- and by the way, the chain of custodies are com -- should be complete, again, by midnight on the -- on election day. But what we're seeing is is that they're not complete and it take -- it's taking them a week and a half to go back and get people to sign chains of custody that they didn't sign on -- on night. That's fiction. That's a Potemkin village is what that is.

Because if the chain has been broken on an election night, then we have problems. That doesn't mean we won't certify. Then we need -- through common sense, we need to look at other things that would give us the level of comfort to certify.

And by the way, I'm going to ask later on -- I'm the last on the agenda tonight -- tonight, sorry, but --

MR. LINDSEY: Don't -- don't say tonight.

MR. HEEKIN: Yeah.

MR. LINDSEY: (indiscernible)

MR. HEEKIN: I'm -- I'm going to ask that you to consider defining what to certify the results of an election mean because neither the election code --

MR. FERVIER: Well, we'll get to -- we'll get to that one later.

MR. HEEKIN: Okay. I was just working the --

MR. LINDSEY: Okay, understand.

MR. HEEKIN: -- the refs.

MR. FERVIER: Thank you. Thank you very much.

MR. HEEKIN: Any questions for me or no?

MR. LINDSEY: No.

MR. HEEKIN: Okay.

MR. LINDSEY: I -- I share the chair's concerns. I -- but I also share yours. And I'm not so sure if this rule's ready for prime time. Unfortunately in talking with our -- our attorney with the Attorney General's Office, that they basically have -- have said to us that our choice is either to accept in total or reject in total your particular petition. It doesn't mean --

MR. FERVIER: I believe that the petitioner can withdraw the petition also.

MR. LINDSEY: No -- well, they -- or they can withdraw. What I -- and -- and we do have time before cert -- the next certification takes place. We've -- we've got time. We've got -- we've got multiple meetings set up. We've got one, I think, tentatively we're looking at in July and then we've got another one in August and October to try to get this right.

Because I -- I do hear you in terms of there seems to be some inconsistencies in terms of what different counties give -- allow board members to see before they certify. And, you know, it would be good for the various board members to have a -- a clear road map. There's definitely some concerns in terms of what can be legally done in terms of throwing out entire precincts. But I do hear you in terms of trying to get it right. I had a delightful day yesterday listening to all that.

And -- and so what I would like to see us do is -- is to have two board members and someone such as yourself or someone else sort of try to come up with a rule that -- that we can take back up in July, for instance, and see if we can -- and working with the Attorney General's Office,

if necessary, in terms of the legal issues to try to at the very least have -- allow our -- our county election board members know what they're going to get before they have to certify and -- and have the county's supervisor know clearly what they need to be giving to their board members prior to certification.

If nothing else that'll hopefully take care of a lot of those issues you're talking about in terms of discrepancies. I'm a lawyer, so I love lawsuits. And I've had -- so I've had defend to candidates in election disputes, but I don't mind having a few less cases if we can satisfy that before -- before that takes place.

So like I said, unfortunately, I'm going to end up having to say no to this petition but I'm going to do so with the understanding that we -- that with the same time that we put together a -- a group. And top of my head, I'm thinking about our two most vocal people on this issue --

That would you and Dr. Johnston.

MR. FERVIER: Anybody not named John Fervier.

MR. LINDSEY: Anyone not named John Fervier. -- to sort of work together along with someone

like yourself to see whether or not we can come up with a -- at a minimum come up -- and also take into account other county election boards' members.

You know, we -- we've got a pretty good organization, for instance, a statewide organization of superintendents. On both sides of the -- the -- on both sides of the political party, they could probably give some input to this issue too.

So that would be my recommendation. And I'm going to ask you if you're willing to withdraw your petition with the -- but with the understanding that -- that we will do a -- a study group that will -- that will work with you to try to present a proposed rule for the next -- July.

DR. JOHNSTON: Mr. Chair.

MR. FERVIER: Yes.

DR. JOHNSTON: A couple of points. First I think it would be appropriate to ensure any board members, any county board members here that they really should have full access --

MR. LINDSEY: Yes.

DR. JOHNSTON: -- to documents --

MR. LINDSEY: I agree.

DR. JOHNSTON: -- in the -- in their county election office. There should be no reason why they have any limitation of access to look at documents and to supervise the conduct of elections which is what they're supposed to do. That includes paper documents or electronic documents, the election management server, results tally reporting.

If anyone should be able to -- to see the -- the votes that are being totaled on the election management server, it should be the county board member. So that's one point.

The other point is looking at Georgia Code 21-2-493, it does say that -- that one should have the -- the number of persons who voted, the total number of ballots cast, but then it goes on to say no votes shall be recorded from a precinct if there's a discrepancy until the investigation shall be had.

So it's still very clear we're talking about number of persons who voted, number of ballots cast, and votes counted. It's one, two, three. And that's by precinct. And it's part of the canvass. It's part of canvassing the election.

So you get all the numbers and then you check your work. You get all the numbers and you check your work. So -- so I don't think there's really -- should be any question about that.

And the only -- the other comment is -- is, first, talking about whether to accept this -- this petition for a rule is it kind of sounds like you're saying a citizen could not provide a petition to really be considered --

MR. LINDSEY: I'm not -- I'm not -- no, I'm not saying that at all. I'm just saying this particular petition. I didn't say that.

DR. JOHNSTON: Okay. You're not saying that about any petition.

MR. LINDSEY: No. I'm just saying this petition needs more work. The issue, I think, is legitimate.

DR. JOHNSTON: Uh-huh.

MR. LINDSEY: Just the petition needs more work before I think we can move forward. That might --

No, no, no. No, please, you're out there. I -- I like getting petitions. I like getting proposed rules. It allows us to think about things.

No, that's not even remotely what I'm saying. I'm saying this particular rule needs more work. And I want -- I want to see it taking place because I do think some legitimate issues have been raised.

MR. FERVIER: Ms. Thorne, at this point we can either proceed with a motion to accept or deny this petition or you have the opportunity to withdraw this for further work and resubmitted it for our proposed July meeting.

MS. THORNE: Well, if you vote on it now and you reject it, that -- does that forbid me from going forward and reworking it and bringing it forward again?

MR. LINDSEY: No. But I just want to make sure you understand why I'm going to vote no is -- but isn't because I don't think you raised some legitimate points because I think you have. It's just I want to make sure that you understood that. It's -- it's your option, ma'am. I'm going to do -- do what you ask.

But I'm going to also tell you that I think that -- that -- that we need to look at what board members should be able to see and get before certification. And that should be a

matter of public record too so the public gets to see within that timely time period in order for transparency to take place.

MS. THORNE: I mean, for transparency it'd be great if everybody posted it online for everybody to see, if we want to be fully transparent.

MR. LINDSEY: Yeah.

MS. THORNE: But I think I'll -- I'll leave it for you guys to vote down.

MR. LINDSEY: Okay.

MS. THORNE: But I'll be happy to work with any of you on the board that would like to work on it and outline it and make it clear if it doesn't pass.

And I appreciate your time. Thank you.

MR. FERVIER: Were there any further questions from the board? The chair will entertain a motion on petition for rule changes pursuant to Georgia regs 183-1-1-.01 submitted by Bridget Thorne.

DR. JOHNSTON: Mr. Chair.

MR. FERVIER: And I -- I believe the rule or (indiscernible) in question is 183-1-12-.12.1, recertification, reconciliation of number of

ballots to number of voters.

The chair will entertain a motion.

MR. LINDSEY: Mr. Chairman, I would move to reject the --

Sorry, guys. You're right.

(microphone on) Move to reject the proposed rule and at the same time appoint a -- a sub -- the chair appoint a subcommittee of two members of the board. And those two members can also name individuals off the board to assist in coming up with a proposed rule to be considered at the next meeting.

MR. FERVIER: We have a motion to reject the proposed rule and for the chair to appoint two members to work with the petitioner to come up with a alternate rule to be presented at the next meeting. Is there a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion and a second. Any discussion? All those in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the motion passes four to zero.

The next item on the agenda is a petition

for amendment to -- of a State of Election Board rule presented by Salleigh Grubbs. Is Ms. Grubbs here?

MR. COAN: She is.

MR. FERVIER: She is.

MS. GRUBBS: Good morning -- no, afternoon. My name is Salleigh Grubbs. I'm the chairwoman of the Cobb County GOP and I'm also an executive committee officer for the Georgia GOP, the over-80,000 chair.

And the rule that I presented to the board, I originally presented in November. Mr. Mashburn sent me an e-mail because at that time I did not have it verified. I did resubmit it to this current board verified.

This is concerning State Election Board rule in -- in amendment to 183-1-14-.02. It is a proposed amendment to add paragraphs 18 and 19. The proposed amendment provides for documentation of delivery and casting of all absentee ballots except by United States Postal Service and UOCAVA cast ballots.

The amendment also requires video surveillance and recording of all drop boxes and clarification the recording is an election

document to be retained as required by law which we know can already be accomplished due to change in -- in law previously.

So the rule states that for advance voting to paragraph 18 any absentee ballot drop box or any location other than the United States Postal Service that receives absentee ballots shall require an absentee ballot form with written documentation including absentee ballot electors' name, signature, and photo ID of the person delivering the absentee ballot and approval -- relation to the electors' name on the absentee ballot.

An absentee form provided by the Secretary of State shall be completed by the registrar, clerk, deputy, or election official. The form shall serve as a written record of the name of the elector, the name of the person delivering the absentee ballot, the relation to the voter, signature of the person depositing the ballot and the type of ID of the person delivering the absentee ballot. The absentee ballot form shall be returned with the absentee ballots and chain-of-custody forms to the superintendent. Any ballot not included on the record, absentee

ballot form, or any ballot delivered without a signed chain of custody shall be considered a provisional absentee ballot. The superintendent shall notify any elector with a provisional ballot immediately and provide information and instructions on how to cure the provisional absentee ballot.

Nineteen. At the close of polls each day during early voting and after the last voter has cast his or her ballot, the poll official shall initiate video surveillance and recording of the polling place. Such surveillance shall include visual recording of the drop box if there is one located at that site. Any drop box that is not under constant and direct surveillance shall be locked or removed and prohibited from use. Video surveillance may be live streamed but must be recorded and will be considered part of the election documents and retained as provided in code section 21-2-390.

Similar to Ms. Thorne's rule, it is about chain of custody. The justification for the rule: It is incumbent upon you, the State Election Board, to take actions to secure the elections process and give voters confidence by

evidencing your commitment to ballot security. We do place our trust in you, all of you members, to stand for electors and ensuring that legal ballots are counted and illegal ballots are dealt with in accordance with the law.

While the burden is heavy, there are steps you can take to give voters confidence and to stop voter suppression by not allowing the dilution of votes by allowing illegally cast ballots.

I will interject here that if you look at Gwinnett County, Cobb County, and Fulton County, you're looking at the majority of voters in the state of Georgia when you add all of these metro counties together. And what you're doing -- not you-you, but what the legislature -- what all of the people who are in any position of authority to have any effect on elections is doing when you're not allowing proper chain of custody such as with Ms. Thorne's rule or with this rule is you are allowing voter suppression to occur by diluting the votes of the rest of the voters in the state.

These people in smaller counties who are following the rules and doing the returns like

they should, their votes are being suppressed by not properly accounting. It's the same thing with advance voting.

Part of the reason for this rule came up in Cobb County where we had situations that now they have decided to allow libraries as government buildings to be repositories for unverified absentee ballots. And so that's part of my commentary on that.

Justification for the proposed amendment is that surveillance was previously authorized and evidenced many unauthorized drops of absentee ballots in many locations across Georgia. There have been locations authorized for ballot delivery in Cobb County, for example. However, it was a government-owned building, a library, and had deputized individuals receiving ballots that were not checking identification and validating the relationship to the voter. This broke chain of custody and did not guarantee that the person dropping the ball to was, in fact, related to the voter or authorized by the voter to deliver the ballot as required by law.

It is imperative that voters have confidence in the delivery of their absentee ballots and it

is incumbent upon the individuals receiving the ballots that they are legally processing the ballots and providing for the necessary security for the receipt and transmittal.

By way of further example, there was an instance in the 2022 election the ballots were delivered and dropped into the tax comm -- y'all are not going to believe this, but it's true. I had to deal with it. They were delivered into the tax commissioner's payment drop box and were accepted as legally cast ballots although there was no chain of custody.

So this happened in East Cobb. There's the tax commissioner's office where you receive tax payments. There was a box there to receive tax payments and people were putting their absentee ballots in the box. There was no chain of custody. There was no video surveillance. The tax commissioner's office opened their box at the end of the day and they took those absentee ballots and they were just accepted by the board of elections.

MR. FERVIER: I -- I know that that is a concern with other counties too.

MS. GRUBBS: Very much so. Furthermore,

this would impede the ability for bad actors to further erode the integrity of Georgia elections and further eroding the trust in the electoral process in Georgia. Every in-person voter's cast ballot is received in person. This should be no different for absentee ballots.

This amendment provides no undue burden on the election workers nor the ballot deliverer. Additionally this meets the same requirement as an in-person voter. For all of the above reasons, I -- I respectfully request that you approve this rule proposal.

And I do want to -- I should have said this in the beginning, but as volunteers in your position, I'm fully cognizant of how much time, effort, and energy that you put into doing this volunteer position. But I can think of no greater burden honestly that you have in addressing some of these rule proposals and changes. And when you talk about the legislature, I hear what you're saying, but it's -- as I was sitting here listening to Ms. Thorne's proposal, I think if the legislature was afraid of you all overstepping your boundary and authority, they would have representatives in

the room to indicate such. And as we all know, I think it should be a requirement for any legislator to run for office in the state of Georgia that they have to actually work an election because we have all of these rules being proposed, you know, legislation being proposed, and half these people don't know who KNOWiNK is. They have no idea what a BMD is.

And so I thank you for educating yourselves on that, being sensitive to it, and I appreciate your bold leadership in looking at these rules to put forth election -- meaningful election changes by promulgating this proposed rule. So thank you.

MR. FERVIER: I want to tell you I have it on good word that -- that the legislature knows exactly what's happening in this meeting. So ...

MS. GRUBBS: Are there any legislative members here in the room today? I would love to recognize you if you are.

MR. FERVIER: Questions, comments from the board? I'll start off. To me, there is a difference between somebody who walks in and hands a ballot off to a poll worker. And I'm trying to find the difference in my own mind

between a ballot box and a mailbox. You know, Gwinnett County, my own county, there's seven, maybe, ballot boxes -- six, seven. It's one per hundred thousand people, voters. And there's hundreds of mailboxes.

And so in my mind I'm trying to reconcile what the difference is of somebody walking into the U.S. Post Office and dropping the -- the ballot off or just going to a ballot box and dropping it off, you know? And when you have hundreds of U.S. post offices, I'm not sure why we need ballot boxes, frankly.

MS. GRUBBS: You know what, that is an excellent point. And I a hundred percent agree with you and I think we should get rid of all drop boxes. We are in agreement.

MR. FERVIER: And I -- I know it's -- I know it's required by legislate -- by law. I understand. I'm just -- my -- my own mind, I'm trying to make that understanding why they're needed. And that's a legislative issue, not a state board issue. We're not going to get in front of the legislature on that.

But I -- I'm trying to decide why there should be a difference between U.S. Post Office

and a ballot box and why we should record one but not the other and why we should have requirements for one but not the other when it's essentially the same thing. You're just dropping off a ballot into a box someplace. When -- when you drop it off and hand it to a person, I can make the argument that that's different, you know? and that there should be some rules.

And, in fact, I've had discussions with some members of the board about that and -- and tightening up those procedures somewhat when you're -- when it's hand-delivered.

And so this has been a concern of the board, and Dr. Johnston and I have talked about this extensively. So I -- I sympathize with what you're trying to do here with -- with part of what you're trying to do. I'm still -- there's still some questions in my mind about the whole ballot box.

MS. GRUBBS: Well, to answer your question, perhaps it's because there is surveillance at United States postal facilities and perhaps it is because there have been people caught dumping off hundreds and hundreds of ballots at United States postal facilities. And through open records

requests that's been discovered.

And so I think at the very minimum -- I mean, I -- I don't -- it's very -- I will -- I'm going to be completely honest with you and tell you it's very difficult to sit here and -- and to watch the proceedings yesterday and to be part of -- trying to be part of the constructive process of participating in government when we were talking about our most sacred right as an -- as an American citizen is our vote.

So the same way you're saying -- and -- and I understand your argument -- if we've got the mail and we send things through the mail, then why should we treat drop boxes any different? Well, to begin with, we shouldn't have drop boxes. To begin with, we shouldn't have 19 days of early voting or 18 days of early voting in the state of Georgia.

To begin with, there are a lot of problems with our elections and this is very -- this is incredibly personally frustrating for me because we're sitting here asking you to secure our election and at every turn it's, Oh, we might not ought to touch that because the legislature might get upset. Well, let the legislature -- be bold,

make some decisions. Secure our votes. Listen to the people because after all the people -- they only have a certain choice in electing legislators. Sometimes we -- we can only deal with the hand that we're dealt with.

But right now you're in this position, this volunteer, unpaid, highly agitated position listening to people screaming at you and I sympathize. I watched the meeting online yesterday. And I understand what y'all go through. But here we are trying to offer constructive things to give the people of Georgia a voice and we are smacked down every time we turn around. I can think of no better hero, an example of fighting for our elections than two women in this room and that's Bridget Thorne and Janice Johnston.

And I see them get shut down all the time. And I probably ought to keep my mouth shut because I do have this rule proposal before you, but I can't help it. You -- you have got to do something. And, you know, just shuffling it off to the AG's office -- I mean, you're still hearing cases from 2020. Does that not scream that there's something wrong with this process?

So I am asking you show some goodwill. At least treat absentee ballots the same as an in-person voter. That's not going to kill anybody. If someone comes into a library to deposit their ballot with a worker which is basic -- which is also not a poll, I will say that.

You've -- you also are not appreciating the disadvantage that some of our board of election members are under in Fulton, in DeKalb, in Cobb County, in Gwinnett County. It is four to one in Cobb County. There's one Republican member and she has also asked for the same documents that she should be given to be able to certify, and I don't know -- I -- I want you to appreciate the fact that when people say "certify an election," they are ascribing their name to the validity of that election. And that means something to people.

When they take an oath of office and they say, I swear to abide by the terms of the Constitution, that actually means something to them. And so you are putting -- I'm sorry I'm speaking to Bridget's rule, but you are putting people's personal integrity and character in jeopardy when you are making them certify

elections that are not correct, that they can't for themselves. That's saying sign off on this mortgage for a million dollars and -- and don't know what your source of funds are. It could be coming from Russia, who knows.

MR. FERVIER: I understand and that's --

MS. GRUBBS: I know it's a separate and I'm sorry. I apologize for that.

MR. FERVIER: Exactly. Let's -- let's deal with the -- your proposed rule at hand.

MS. GRUBBS: I agree. I apologize. I told you I'm --

MR. FERVIER: I understand. You're passionate and we appreciate your passion on that. But I want to -- I want to get back to this. And I -- I hear you about the ballot boxes but I -- you know, there are still a lot of blue boxes out there, I think, that people can walk up to without having to go inside a post office and video recordings, you know? And so that's what -- that's what my concern is. Why would we treat these any different?

MS. GRUBBS: But there's also a specific way of handling absentee ballots with the United States Postal Service. So you've also got that

issue. You have the issue when there's return mail, how that is dealt with local boards of election, and that kind of thing. There are provisions. There are federal provisions on handling absentee ballots with the United States Postal Service, but in the case of a drop box, you're just saying, Bring them on boys. That's what you're saying.

You're saying, you know, give me all your tired, your poor, your hungry fake ballots and let's put them in this box and then let's not have a chain of custody on accounting for those is what you're saying.

MR. FERVIER: No, I'm -- I haven't said anything. I've --

MS. GRUBBS: Not you, but -- not you, not you personally. I promise I'm trying to be on my best behavior.

MR. FERVIER: So am I.

MS. GRUBBS: But there are other provisions for federally handling ballots through the -- because that is a federal situation. What you're talking about is -- I'm repeating myself from December of 2020. This is the state of Georgia and these are state of Georgia rules and

regulations. And this is not something that is unreasonable. This is not something that is contrary to current law. This is not something that the legislature if they're watching is going to come back and smack you around for it. This is just very common sense chain of custody issues.

MR. FERVIER: The chair would love to hear the opinions of some other board members.

DR. JOHNSTON: Mr. Chair. Looking at this -- this proposal, I would like to note that it says ballot drop box or any location other than USPS.

MS. GRUBBS: Correct.

DR. JOHNSTON: So -- so there are many routes today for a return of absentee ballots. It can be the election office. It can be the drop boxes. And in some counties, it may be early voting sites without drop boxes or any number of places.

So I think it would be a prudent thing to reestablish sort of the chain of custody --

MS. GRUBBS: Correct.

DR. JOHNSTON: -- when that absentee ballot is brought to anything other than the USPS to --

to reconnect and ask that -- the person, the voter that's bringing their ballot to simply say, hey, are you -- are you the owner of that ballot? And can you kindly show me some ID? That's what we ask when somebody comes in to vote, show me your ID so you can get a ballot. No different really.

The difference with USPS and drop boxes is USPS is a -- is -- falls under federal law. So if there are any irregularities, there's a little bit of a -- an onus that -- that somebody might be violating federal law too. So there's a difference. And drop boxes were actually brought into Georgia for the pandemic. The whole premise of bringing drop boxes to -- to the state was because we had a pandemic and -- and we did not know how serious the -- the viral pandemic was and we wanted to provide an alternative for people to vote without having to get closer than 6 feet to someone else or maybe pick up the virus and contract COVID-19.

So there's really no need from a pandemic perspective to have drop boxes anymore. We realize that we had an issue when they were put outside the polling places with security and --

and the legislature brought them into the polling place. So now you're asking a person to bring an absentee ballot into a polling place where they could simply turn around and vote in person.

So if -- if they're -- if they're handicapped or disabled, then certainly they can ask their -- their next-of-kin relative or one of the 14 designated appropriate persons to take that ballot and take it to the post office and you don't even have to pay for postage. That's -- that's protected with our laws.

So why -- why somebody would bring it to the polling place when they couldn't just drop it off to a closer mailbox, I don't know. So I think this is a reasonable thing to request. But if we are going to continue with drop boxes, then I think video surveillance of the drop box and actually video surveillance of -- of early voting sites at night during the early voting period is -- is a fair thing to ask for also. When voters are gone and the lights are -- the lights are turned off, sometimes we find that those early voting sites aren't as secure as we thought they were and doors are left unlocked or people find their way in. You can walk through

St. Philip's Cathedral and see voting machines all during the early voting period. And they're -- they're not secure. We just assume people are going to not bother them during the early voting period.

So anyway I -- I think this is a -- a fair petition.

MS. GHAZAL: Mr. Chairman.

MR. FERVIER: You're recognized, please.

MS. GHAZAL: I appreciate what you're trying to do here. And -- and I think there may be two separate issues that are being conflated which is ballots being delivered in person to additional registration sites versus drop boxes. Because the former has -- is authorized under statute but there is absolutely no detail provided in statute. And that is right for rulemaking.

The legislature has made polic -- a policy choice to allow drop boxes, a limited number. And they have written very specific instructions on how they should be overseen. So they're -- not -- not video surveillance, they're overseen by a person and very specific chain-of-custody requirements for how those -- those ballots are collected and accounted for and -- and taken to

election headquarters.

I believe that -- that this rule as applied to drop boxes extends far beyond our authority as a board. I just don't think we have the legal ability to add additional requirements beyond the very specific requirements that the legislature has past and past under SB-202.

And while it was an emergency measure in 2020, the legislature debated it and they decided, and they -- there were even contemplations several times to remove drop boxes entirely and they have made the affirmative decision to maintain them and to allow voters to have that option. And we can't go beyond what the legislature has dictated for use of those drop boxes in my view.

DR. JOHNSTON: Well, I find -- I find that -- that's a -- that's a good point with dealing with drop boxes. But actually the statute says that they shall be under constant surveillance. Constant surveillance. So that doesn't mean just while the poll's open. Constant surveillance means 24 hours a day as long as they're there.

So -- so it's our duty to make sure that we

provide proper constant surveillance of drop boxes while we have them in our elections.

The other thing is the issue is not just the drop box but it's actually the return of the absentee ballot that we're talking about. So the drop box is just a metal box, but what -- but I think what Ms. Grubbs is -- is speaking to is the return of the absentee ballot and the security of such and -- and the reestablishment of the chain of custody of the ballot.

MS. GRUBBS: That's right. And if I might add, I mean, as far as showing identification, you know, I can't go get NyQuil without showing my ID. Just to return a ballot to show ID and showing a relation is something that's well within the law.

And you are -- you are given the authority to promulgate rules. I mean, that's part of the purpose of this board. And I really don't understand why anyone would have any issue further securing people's right to vote. It also protects the voters and the electors. So that's ...

MR. FERVIER: My only -- my only problem with this rule is adding the documentation that

you're requiring for drop boxes. I don't mind having them under surveillance. I don't mind the video. I don't mind any of that necessarily, but having a voter bring in and put a vote in a drop box and have them fill out the documentation associated with that, that bothers me because I still can't differentiate in my mind the difference between a drop box and a blue box sitting on the corner somewhere where you don't have to do that.

Okay, they're both surveilled. The one on the corner probably isn't but I -- I can't differentiate between those in my mind and so I don't see the need for the documentation for somebody just walking in, putting it in the drop box.

And you add security to it because now you've got it on video. So if somebody brings in an armload of ballots and throws them in there, you're going to see that, you know? And somebody can file a complaint and we can investigate it and we can do all of that like we are doing other complaints.

But that -- but that particular -- that first line where you add drop box is where, you

know, for the documentation is my problem with this rule.

MR. LINDSEY: (off microphone) Could your issue be -- be resolved if only --

UNIDENTIFIED SPEAKER: Can't hear you.

UNIDENTIFIED SPEAKER: Can't hear you.

MR. LINDSEY: Right. I'm sorry. I'm sorry, guys.

MR. FERVIER: We're just going to have to leave your chair up.

MR. LINDSEY: I know. That's a bad habit.

UNIDENTIFIED SPEAKER: You need someone's help.

MR. LINDSEY: (microphone on) That's right. It basically gives me somebody to talk to every once in a while.

Could -- could your issue be resolved by a -- a line on the envelope that gets dropped into the drop box in which the person who drops it has to certify who -- who they are? Because right -- I don't believe -- I'm -- I'm asking you that.

MS. GRUBBS: I mean, I watch all your meetings.

MR. LINDSEY: Yeah, I'm asking.

MS. GRUBBS: And I am for whatever will get us closer --

MR. LINDSEY: Yeah.

MS. GRUBBS: -- to -- to the situation. I mean, I watched as I was observing a drop-off location in South Cobb in 2022 this woman come in and when posed by the election worker -- now keep in mind one of the board of election members was highly involved in developing their new process.

UNIDENTIFIED SPEAKER: Sure.

MS. GRUBBS: See, that's what -- that's what's so difficult to hear because these boards of elections will come up with creative ways -- creative ways to get around legislation. They think outside the box to get around the legislation. That's why the whole library thing came up.

And so they work really hard to figure out how to get people to drop off these ballots that may or may not be valid. And I've heard all the cases of the people in -- particularly the vulnerable voters who have their ballots carried.

But then you can't go back -- you know, you go back a year or two later -- my mother's 96. She's in -- in a nursing home at present and, you

know, I'm scared to death that somebody's going to go in and get her to vote a ballot and then, you know, in a year or two or three, whenever if something were to happen and there was a case or an issue, that information's gone. Those people don't work there anymore and my mother's dead.

And -- and there is no justice when it comes to holding people accountable. So I find it a little bit bizarre, to me, that we want less accountability. I mean, if -- if I have to sign a piece of paper or show my driver's license to get some, you know, Advil Plus or whatever, why is it so outside the realm of possibility for someone to actually show their ID and have that information as part of the chain of custody?

I mean, it -- chain-of-custody form, most precious gift that we've been given by this republic is being trampled on in this country and specifically in the state of Georgia into dust. And so I feel like it's this fight against accountability. If anybody was in a corporation and fought against that accountability, they'd be fired. They would not have a job. So I'm trying to reconcile that in my brain.

MR. LINDSEY: I understand. I'm just --

I -- but I did have a specific question and that was --

MS. GRUBBS: Something is better than nothing.

MR. LINDSEY: Yeah.

MS. GRUBBS: But I did submit the rule back in November and I haven't discussed it with anyone since that time. I am always open to suggestions on how to make something better. I'm not here because I want to give you grief. I'm not here -- I might not feel that way, Mr. Fervier, but I'm here because we have a broken election system in Georgia and unfortunately or fortunately you have been placed into authority by God to help fix that and to give all Georgians a fair shake.

And right now that is not happening. And this proposed rule would help a little bit in giving Georgians more of a fair shake. And so I hear what you're saying, Mr. Chairman --

MR. LINDSEY: I'm just trying to -- I'm just trying to think here.

MS. GRUBBS: You know, as far as the postal service, they are two horses of different colors. I would -- I'm in agreement with you. Let's

ditch the drop boxes and I wish you did have that authority, but unfortunately I do believe that that resides with the legislature who isn't here today. I agree with you. However, there are federal regulations that govern that. We're talking about the state of Georgia and we're talking about something that is within your power. This is within your authority. And I don't see how making our elections more secure is a bad thing.

MR. FERVIER: Any other comments from -- questions from the board?

Member Ghazal.

DR. JOHNSTON: I would -- I would say further that when absentee ballots are given to another person to deliver or deposit or return, you know, that's basically a proxy and you're -- you're just confirming the -- the proper person that is a proxy for that -- for that returned ballot.

MS. GRUBBS: Absolutely.

DR. JOHNSTON: If it was the voter returning the ballot, I would instruct every poll clerk, precinct clerk to -- to say thank you very much. I mean good customer service. Thank you for

bringing -- thank you for voting and thank you for bringing your own ballot in. And when I find -- and when I worked in the elections, they -- when I asked for ID, people -- everyone has ID and they're glad to show you.

And when I go to a store and show ID and they're -- they actually check my ID for something I'm getting ready to charge, I thank that person for making sure that the credit card I give them has my ID associated with it so that -- that I'm not being taken advantage of. So I -- I appreciate that carefulness in -- in checking.

MS. GRUBBS: I do too.

UNIDENTIFIED SPEAKER: Can we take a brief (indiscernible)?

MR. FERVIER: If Ms. Grubbs approves it.

MS. GRUBBS: The speaker recognizes the gentleman to my right from Gwinnett County.

MR. HANCOCK: Thank you. We -- as a board member of Gwinnett County, we just voted to accept absentee ballots at any open polling location and early voting even if without drop box. I tried to make the point that this sort of subverted what the state law appeared to --

appeared to -- to indicate that there would be one drop box per one hundred thousand people by allowing essentially an unlimited number of drop boxes.

So I tried to make an amendment that at least at the places where there was no drop box that the person dropping off the ballot would have to simply sign a form that said their name and the number of ballots they're dropping off and then sign essentially an affidavit agreeing with the rules that are required by the state, the 14 people that you can drop off ballots for. And that was voted down in the -- and actually the chairman refused to even call for a second on my amendment.

So we -- we would appreciate guidance and help on that. And I think that'd be an important thing. And just another point even if it's not done correctly, you're saying the difference between the post office and the drop box, I've heard that argument several times. If it's not done correctly at the post office, that doesn't mean we can not do it correctly and when we have control over the state. So just because, you know, it's -- it's not a hundred percent right at

the post office, we can make it a hundred percent or better at the -- at the state level.

So that's all I had to say.

MS. GRUBBS: And that's -- to his point that's absolutely correct. Look at the early voting numbers for this primary election. They are paltry. People are disengaging at record numbers because people in authority are not holding people accountable and they are not leveling the playing field.

And at the end of the day, that's reflective on leadership. And I'm asking you as the State Board of Elections to lead. Lead on election integrity, lead on fairness, lead on accountability, and lead on integrity because we have not had it from our Secretary of State's Office.

We see the reality of what's going on in these elections and yet we're subjected to the press releases that say, Oh, we've done this. And I actually heard bragging that Georgia had the most days of early voting. Early voting does not equate to fair elections.

So I'm just asking you to please lead on hearing a reasonable rule that is fair across the

board that does not put an undue burden on election workers that -- and to his point, just because somebody else doesn't -- if they don't do it right doesn't mean we don't have to do it right too. We can step up our game and it's up to you to step up the game.

MR. FERVIER: Like I said, my -- I mean, my last comment is I -- I agree with almost the entirety of your rule with the exception of drop boxes which I think exceeds the scope of what is in the statute for us to -- to do with the drop boxes, that's require documentation when somebody drops it off there. The rest of it I -- I have no issue with. So ...

MS. GRUBBS: But you -- you have local boards who are changing the definition of a drop box, just so you know. Just like he said, in Gwinnett County, in Cobb County, they are making these virtual drop boxes by allowing people to just drop them off wherever.

MR. FERVIER: But now that's different. I'm -- when I'm talking about drop boxes, I'm talking about the blue box or drop box where they actually insert the ballots. That -- they're designating additional places where you can drop

off a ballot to an individual and your rule addresses that --

MS. GRUBBS: Right.

MR. FERVIER: -- for documentation. And like I said, I have no problem with that. It's just the physical act of putting it in the box, to me. I can't differentiate that from --

MS. GRUBBS: Being under surveillance? Just so I understand.

MR. FERVIER: Well, I -- I'm okay with your surveillance.

MS. GRUBBS: Okay.

MR. FERVIER: It's just -- but requiring documentation for dropping it in the box itself, I have an issue with differentiating that between dropping it in a mailbox someplace.

MS. GRUBBS: If that gives you heartburn, I will give you my pen, you mark that point out and you approve the rest of the rule.

MR. FERVIER: I have this pen that was given to me by the governor when he --

MS. GRUBBS: I'm sure it's a much better pen than mine.

MR. FERVIER: -- when he -- when I -- am honored to have gotten this job.

DR. JOHNSTON: Just a point of clarification as far as surveillance. There's no video surveillance of the drop box during voting --

MS. GRUBBS: Correct.

DR. JOHNSTON: -- because of the -- the --

MS. GRUBBS: -- privacy.

DR. JOHNSTON: -- privacy issue or alleged privacy issue. Because my -- it may be pointed somewhere else where a voter might be --

MS. GRUBBS: Well, because we don't have BMD security --

DR. JOHNSTON: -- visualized.

MS. GRUBBS: -- privacy. So that would be a reasonable statement for sure.

DR. JOHNSTON: So -- so there's -- there's not -- constant surveillances is -- I guess might be defined as it currently occurs is just that it's in a polling place. And so that -- that's what -- how it's being interpreted right now.

But the documentation for who's returning that ballot is -- that's a very important thing for -- for the return of that absentee ballot and -- and establishing that the person is indeed the voter or a proper person, authorized person to return an absentee ballot.

MS. GRUBBS: And also, too, on the -- on the U.S. Postal Service issue, while that's not the paradigm of -- you know, the panacea of voting returns of ballots either because I grew up in the time where we didn't have absentee ballots unless you had a doctor's excuse or you had some kind of other reason to vote absentee.

But United States Postal Service delivery, there are postmarks, you know. So you know it came through that system. So I'll hush.

MR. FERVIER: Any other comments from the board? Any other questions from the board? The chair will --

MR. LINDSEY: Let me ask you this.

MR. FERVIER: Well, is it appropriate for us to make alterations to the proposed rule?

MR. LINDSEY: There's a dispute on that --

MR. FERVIER: I'm -- I'm kind of new at this --

MR. LINDSEY: -- but I'd like to weigh in on -- on yes and then -- and then let's see if somebody wants to object to us after the first -- after we do so. If we want to try to make -- if there's some key but small tweaks to it. I think some rules required more handiwork, like the last

one. But if I understand you correctly, for instance, you know, your concern regarding the -- the sign-in would be somewhat easy to fix in terms of any absentee ballot drop location, other than the U.S. Postal Service or an authorized drop box under Georgia law, and then go on there, I think you can pretty much get that one taken care of.

And then I think, Dr. Johnston, you had a concern about something with the surveillance or did I misunderstand?

DR. JOHNSTON: Oh, well, there's -- there's not video surveillance of drop boxes in the polling place during --

MS. GRUBBS: During business hours.

DR. JOHNSTON: -- during voting.

MS. GRUBBS: Yeah.

MR. FERVIER: But -- but there is visual surveillance and they're in a location where people can see them, right?

DR. JOHNSTON: There -- they should all be --

MR. FERVIER: (indiscernible)

DR. JOHNSTON: -- in the polling place where -- where the voting machines are.

MR. FERVIER: And poll watchers can --

DR. JOHNSTON: And visually, yes, in sight. But --

MR. LINDSEY: Basically -- basically -- basically then you're -- you're fine with 19 as written. I just want to make sure.

DR. JOHNSTON: With -- as this proposal?

MR. LINDSEY: Yes.

DR. JOHNSTON: I'm fine with this. And -- and actually part of the -- you know, part of the rulemaking is -- is this would go to Ledge Counsel and to the proper committees and assigned persons for review anyway so that there is an opportunity if there's an objection -- a legal objection or amendments that are suggested, then those could occur during that process.

So this could be brought back. It could go through the process and then be brought back next month for approving the rule as -- as amended. And then it -- then it's posted, a notice of filing, where it's officially -- you know, officially filed rule for 30-day comment.

MR. LINDSEY: Yeah.

MR. FERVIER: I'm so happy we don't conduct business in the real world that way.

MR. LINDSEY: My suggestion -- yeah. My --

MS. GRUBBS: I'm trying to bring you along but you just won't listen.

MR. LINDSEY: Yeah. Yeah. My suggestion would be to -- similar to some county election boards who don't want to sign off on something blind, I don't necessarily want to sign off on a board -- on a rule blind, hoping that it'll get -- somebody else will fix it.

And so if we are to do anything today, I would recommend that we make the tweaks that the chair, for instance, has suggested regarding differentiating between drop boxes and other locations. And if we're going to move forward, make that differentiation and then -- then send it out for all the other people to take a look at.

MR. FERVIER: And that does give the legislator a chance to, if they want to, enforce it on drop boxes, they can make that change when they --

MR. LINDSEY: We can -- we can --

DR. JOHNSTON: I would suggest --

MR. LINDSEY: -- take that issue --

DR. JOHNSTON: -- that we -- that we send it

as is and if they don't like the drop box provision to -- for them to amend that and remove that.

MR. LINDSEY: Well, keep in mind I have at least -- I have -- I have the chair and some other folks who are concerned about the drop box. So I'm trying to -- I'm trying to move something forward here.

MS. GRUBBS: I'm trying to move it forward too.

MR. LINDSEY: Yeah.

MS. GRUBBS: So just approve it and then let it come back rejected if legislative counsel has an issue with it. Is -- would that be appropriate, Dr. Johnston?

DR. JOHNSTON: All right.

MR. LINDSEY: My recommendation --

MR. FERVIER: I --

MR. LINDSEY: Go ahead, Mr. Chairman.

MR. FERVIER: I'm not sure it will get approved without alterations --

MS. GRUBBS: Let's give it a go.

MR. FERVIER: -- without alterations to it.

MS. GRUBBS: Okay. Let's give it a shot.

DR. JOHNSTON: Make your recommendation.

MR. FERVIER: And the chair is going to exercise its right to make a motion. The chair moves that this rule be adopted with the following change: That on line 1 of section 18 the words "drop box or any" are taken out and the words "with the exception of drop boxes" is inserted in their place.

MR. LINDSEY: Or other -- or other than the United States Postal Service -- Can I recommend? -- or -- or authorized drop box under Georgia law.

MR. FERVIER: Okay.

MR. LINDSEY: That way we can move forward and then we can have a further discussion down the road.

MR. FERVIER: Do you have that down, Alexandra?

MS. HARDIN: (nodding)

DR. JOHNSTON: Would that -- would that cover a county being creative and calling something a drop box and it really is not an -- what we consider an approved drop box?

MR. LINDSEY: But isn't -- isn't drop box defined under Georgia law?

MS. GHAZAL: Yeah, it is.

MR. LINDSEY: It's already defined.

(Cross-talking)

MR. LINDSEY: If somebody's trying to get around it, they're getting around the definition of a drop box which is under Georgia statute. That's why I put in there --

DR. JOHNSTON: Official?

MS. GHAZAL: Authorized.

MR. LINDSEY: -- as -- I can --

(Cross-talking)

MR. LINDSEY: -- as authorized -- an authorized drop box under Georgia law. That's why I put that in there.

DR. JOHNSTON: The -- okay.

MR. LINDSEY: We can have that definition.

MR. FERVIER: The -- the Attorney General would like to weigh in on this -- or Attorney General's Office.

MS. HARDIN: Can you make sure that this is off?

MR. COAN: Oh, yeah, of course.

MS. HARDIN: Russ, we should be able to hear you now.

MR. WILLARD: All right. There has been a motion and a -- John, was your motion seconded?

MR. FERVIER: It -- it has not been seconded yet.

MR. WILLARD: You had -- the phrasing of your motion needs to be altered. You said, I move that we adopt this rule. That is not the correct posture that you are in at this juncture procedurally. You have to move to initiate rulemaking proceedings.

The adoption is significantly far into the future. You have to get all your ducks in a row with the promulgation of a rule, most of which the statute explicitly says you must exactly apply with. There is no substantial compliance with the vast majority of APA rulemaking.

So you are moving -- you would need to move to initiate rulemaking along the lines of whatever text the board so chooses. But you are not adopting anything today.

MR. LINDSEY: I hereby -- let me make sure I've got it right. I hereby move to initiate rulemaking --

MS. HARDIN: -- proceedings --

MR. LINDSEY: -- of the proposed petition as amended. Is that -- is that right?

MR. WILLARD: That would work.

MR. FERVIER: Is that -- is that process significantly longer than withdrawing the petition and resubmitting it in July with changed --

MR. LINDSEY: No, I don't think so.

MR. FERVIER: -- wording?

MR. WILLARD: It will pro -- it would probably work on the same timeline unless you discover additional errors or conflicts with federal law that would need to be resolved and then you would have to start over. Every time you tinker you have to start over and say return to go, start off on space zero, and begin the process over again.

So it may be cleaner to initiate the process ab initio where the board is making a first crack at the draft of the language instead of trying to alter a provision that you haven't previously had board input into.

I'm just flagging for the board any subsequent change to a rule after you begin the rulemaking process requires you to start over again at the beginning.

MR. FERVIER: Do you know the language? Do you have the language written down?

MR. LINDSEY: Yeah. Russ?

MR. FERVIER: I withdraw my motion.

MR. LINDSEY: All right. Let me try this. I hereby move to initiate rulemaking of the proposed petition as amended as follows: On line 1 strike "box or any" and -- and on line 2, let me start by saying "other than the U.S. -- United States Postal Service or authorized and defined drop box under Georgia law."

I think that would take care of your concerns, Mr. Chairman.

MR. FERVIER: Yes. We have a motion from member Lindsey to revise and initiate rulemaking as stated by member Lindsey. Do we have a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion and a second. Any discussion by the board?

MS. GHAZAL: Can I clarify that paragraph 19 would require video surveillance after-hours of any location that -- that any early voting location? Or is it any early voting location that accepts absentee ballots delivered in person? How -- how would this operate now because it is -- does not apply to drop boxes?

MR. LINDSEY: Let me ask the -- the author. Was it your intention to have the surveillance of drop boxes during after-hours?

MS. GRUBBS: Correct. As long as -- as long as active voting is not going on.

MR. LINDSEY: Yeah. Hold on. Okay, I just want to make sure I understood your -- your point.

MS. GRUBBS: Yeah, because it says after the last voter has cast his or her ballot. So basically at the close of business so that -- I mean, you have -- you know, you have a drop box here, we're conducting business, everybody can observe the drop box. We go home at night, flip off the light switch, that we have it under video surveillance.

And I think the key there too is to also have the retention of that information. That -- that was one of the problems is there were plenty of things that happened. And then, you know, more investigation was warranted but then the evidence had been destroyed.

MR. LINDSEY: So is it your intention, for instance, if I -- if we added under 19 -- let me withdraw my motion and just do a conversation for

a minute.

MR. FERVIER: It's withdrawn.

MR. LINDSEY: And then I'll -- I'll put it all together.

With line 19, to also take care of the concern raised, would it -- would it resolve the concern if we said at the opening line of 19: At the close of polls at a location where a drop box is located? Would that take care, Sara, of your concern?

MS. GHAZAL: I just want to understand exactly what's intended here.

MR. LINDSEY: Yeah. I think what's intended is that you -- you want the surveillance where there's a drop box.

MS. GRUBBS: Correct.

MS. GHAZAL: Okay.

MR. FERVIER: Could be the -- the same language about the state authorized?

MR. LINDSEY: Hold on.

MS. GHAZAL: Is there any estimation of cost implications for the counties?

MS. GRUBBS: I don't know, but considering they were under surveillance before, I'm sure that there is some information available. I did

not do that research, but I'm sure it's considerably less than opening all of these investigations for everything else that happens. I don't know.

MR. LINDSEY: And I might add that -- that that's a valid question to ask as we move forward. All we're trying to decide today is whether or not to -- for want of a better term, to launch the ship. We're not necessarily interested in whether or not it -- it docks. And that's --

MS. GRUBBS: I like that, Mr. Lindsey.

MR. LINDSEY: Yeah, glad somebody does. I'm joking.

MR. FERVIER: Are you ready to --

MR. LINDSEY: Oh, no. No, no. I want to play with this. At the close of polls -- at the close of polls at a location --

MS. GHAZAL: And I think procedurally we -- there are two separate -- and please, Russ, if you could weigh in on this -- procedurally with a petition, we have to do an up-or-down vote, and then separately decide whether or not to initiate a rulemaking process. Isn't that correct --

UNIDENTIFIED SPEAKER: No.

MS. GHAZAL: -- Russ?

MR. WILLARD: No. 50-13-9 says you either reject the petition or initiate rulemaking proceedings pursuant to 50-13-4.

MS. GHAZAL: Well, we can initiate on the basis of a different -- a different language from what the petition has? Is that right?

MR. WILLARD: That is correct.

MS. GHAZAL: Okay, thank you.

MR. LINDSEY: Okay.

MS. GHAZAL: Thank you.

MR. WILLARD: And -- and honestly at this juncture, because I think -- and -- and I think Ed was the one -- and I apologize, my video feed and my audio feed are not synced up, but I believe it was Ed who was attempting to address a provision in 19.

There is -- there is some verbiage in 19 that is potentially problematic even with what I heard Ed's fix was in regards to trying to qualify at the front end in polling places where there is a drop box, because the operative portion after that contingent intro still requires video surveillance of the polling place not the drop box.

It may be that the board says, We're going to initiate rulemaking on these terms but start over at scratch with a clean sheet to accomplish what the petitioner wanted to accomplish. But there are still some inconsistencies between how the petitioner has phrased things and what she has at least verbalized today what her intent was.

The problem is in terms of what she has proposed in regards to 19. She was wanting video surveillance of every early voting polling location.

MS. GRUBBS: No.

MR. WILLARD: I do not believe --

MS. GRUBBS: If there's a box there.

MR. WILLARD: -- that counties have control of every video -- or every early voting location.

MR. LINDSEY: Yeah. Russ -- Russ, I think in talking with the petitioner, I think that she's made it very clear that she only wants the surveillance of where there's a drop box.

MS. GRUBBS: Correct.

MR. WILLARD: And -- and that's fine but that's what I'm -- that's what I was saying and what I was referencing in my comments, Ed. It

may be easier to start from scratch than try to tweak this, you know, because the board will know what it's trying to accomplish in the rulemaking as opposed to trying to red or blue pen what she has submitted at -- at this juncture. But that -- that's up to the board's discretion.

MR. LINDSEY: Yeah. I -- I do think --

MR. WILLARD: And you are playing Whack-A-Mole trying to undo some of what she has put in there because the language that she employed in her petition is much broader than what she has articulated today.

MR. LINDSEY: Well, I think -- I think we can -- and -- and I respect that, but I think that we can -- we can tweak it but with some specific language at the beginning of 19.

MR. FERVIER: Or really on line 3 where it talks about polling place --

MR. LINDSEY: Or on line --

MR. FERVIER: -- where a drop box is lo -- located.

MS. GHAZAL: And I would also suggest changing language because polling place is the legal term used for election day, not early voting location. I -- I would not want counties

to believe that we would -- we're requiring video surveillance of every election day polling place.

MR. FERVIER: How about voting locations instead of polling place?

MS. GHAZAL: Early -- early voting location.

MR. FERVIER: Yeah, okay.

MR. LINDSEY: Early voting location. So --

MS. GRUBBS: I'm in agreement with that.

MR. LINDSEY: Okay. So what we would do is at the end of that sentence, on line 3, we have -- and recording of the drop box, the --

MR. FERVIER: At the early voting location?

MR. LINDSEY: Yeah. The drop box at the early voting location. I would put a drop box because not all of them are going to have one. All right --

MS. GRUBBS: Just to --

MR. LINDSEY: -- here's my motion.

MS. GRUBBS: I'm sorry.

MR. LINDSEY: Go ahead.

MS. GRUBBS: I just had a question. Can you read to me what the -- I don't have the code in front of me but what the actual definition of a drop box is?

MR. LINDSEY: I have to find it. See if I

can find it quickly or somebody else can find it quickly. Tell you what, someone else is going to look at it quickly. Let me -- let me work on the -- let me make my motion.

MS. GRUBBS: You go right ahead, Mr. Lindsey.

MR. LINDSEY: Yeah. Let me make my motion while somebody else tries to answer your question.

MS. GRUBBS: Thank you.

MR. LINDSEY: All right. I hereby move to initiate rulemaking of the proposed petition as amended as follows. On 18, in the first sentence, on the first line, drop -- rather delete "box or any." And on the second line, after postal service, add the words "or authorized and defined drop box under Georgia law." And then the additional amendment will be in 19 in the third sentence.

MR. FERVIER: Third line.

MR. LINDSEY: On the -- yeah, the third line -- sorry, the third line, delete "the polling place" and inserted in its place "a drop box -- or the -- any -- any --

MS. GRUBBS: Is that early voting location?

MR. LINDSEY: -- any drop box at a early voting location." Did you get that Alex?

MS. HARDIN: Any drop box at any early voting location?

MR. FERVIER: At -- anywhere?

MR. LINDSEY: Yeah.

MS. HARDIN: Any drop box at any early voting location.

MR. LINDSEY: Yeah.

MR. FERVIER: We have a motion from board member Lindsey as stated. Do we have a second on that motion?

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion and a second to -- for the revised -- to initiate rulemaking on the revised petition. Any discussion from the board? Hearing no discussion, all those in favor to initiate --

DR. JOHNSTON: Question.

MR. FERVIER: Yes.

DR. JOHNSTON: Just to be clear, did Mr. Lindsey -- did Mr. Lindsey say any absentee ballot other than United States Postal Service and drop -- and defined drop box?

MR. LINDSEY: Any absentee ballot drop-off

location.

DR. JOHNSTON: Okay. Drop off.

MS. GRUBBS: And then he -- he said after postal service, "or authorized defined drop box under Georgia law."

MR. LINDSEY: Although I can't find --

MS. GRUBBS: That's why I was -- I'm sorry.

MR. LINDSEY: Yeah. I understand.

DR. JOHNSTON: Or defined and authorized?

MR. LINDSEY: No. Or authorized and defined drop box under Georgia law.

DR. JOHNSTON: Authorized and defined.

MR. FERVIER: Let's start over so that we can make sure we have this clear.

MR. LINDSEY: Okay, here we go.

MR. FERVIER: Member Lindsey, if you would restate your motion one more time, please.

MR. LINDSEY: I hereby move to initiate rulemaking of the proposed petition as amended. In the first line of 18, delete "box or any" and insert the word "off" so that the first line before the comma will read: Any absentee box off location.

On the second line, after postal service, add the words "or authorized and defined drop box

under Georgia law.

Under 19, on line 3, delete that polling place and insert in its place "a drop box at any early location -- any early voting location."

MR. FERVIER: We have a motion as stated by board member Lindsey. Do we have a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion and a second by member Johnston. Any further discussion on this?

UNIDENTIFIED SPEAKER: One moment. Georgia law does not describe usually what a drop box is.

MR. LINDSEY: Well, let see what we've got.

MS. GHAZAL: There's no definition but there is a -- a very specific descrip -- legal description of the opening slot in the drop box shall not allow ballots to be tampered with or removed. A drop box shall be labeled official absentee ballot drop box and shall clearly display signage developed by the Secretary of State pertaining to Georgia law.

I think that is a sufficient legal description and code to -- for counties to identify precisely what we're talking about.

DR. JOHNSTON: (indiscernible) could you

tell me --

MS. GHAZAL: It is O.C.G.A. 21-2-382(c)(2).

MR. FERVIER: That seems sufficient. We have a motion and a second. Any further discussion from the board? Hearing no discussion, all those in favor of moving the motion signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, the motion is moved by a vote of four to zero.

MS. GRUBBS: Thank you. Thank you very much.

MR. FERVIER: At -- at this time the chair will entertain a motion to recess for lunch.

MS. GHAZAL: So moved.

MR. LINDSEY: Second.

MR. FERVIER: Do we have a second?

DR. JOHNSTON: Second.

MR. FERVIER: All in favor signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Motion carries four to zero.

We will -- we will recess until 2:00. Forty minutes approximately.

(Recess)

(In progress)

PETITION FOR AMENDMENT OF STATE ELECTION BOARD RULE

(JULIE ADAMS)

MS. ADAMS: ... Julie Adams. I'm a resident of Fulton County. And I am here for this rule proposal as a resident. And I'm also here as a resident that has been involved for several years in elections. And since I live in Fulton County, it's been a lot of involvement in Fulton County.

So -- excuse me -- the election -- I see the elections as a service we provide for eligible voters and also for candidates that are brave enough to run for office. And my proposal is just to provide transparency in the elections. I think that transparency is key.

And so what I'm proposing -- currently under Georgia law, O.C.G.A. 21-2-408, political parties can have two poll watchers in the tabulation center. This doesn't take into effect the different sizes of tabulation centers. And, for example, in Brooks County, Georgia, in South Georgia, they have an election day polling location in a big room. Part of the room is the polling location. The other part they totally

tabulate the elections right there. You can come in to vote and you can see them performing vote review panels.

So then you've got locations like Fulton County. It's 800,000 square feet. The tabulation center is absolutely huge and it's hard for two people to monitor what's going on. We have other big counties. DeKalb comes to mind that you have processes going on in several different rooms. So it's hard for two people to decide where to be or what they can see.

So this is -- should be nonpartisan, noncontroversial. What I'm asking you to do is to take in consideration the size of the county. The bigger the number of registered voters means the more ballots and more ballots means bigger space or multiple different rooms that processes are going on.

So I have given you all the top counties, the ones of over 200,000 voters. They're Fulton, Gwinnett, DeKalb, Cobb, Chatham, Cherokee, and Clayton. And the number of counties with a hundred to 200,000 registered voters is eleven, okay? I continued down because I thought it was very interesting that we have a hundred and

twenty-three counties with less than 50,000 registered voters. I'd say we have too many counties, but that's just my opinion. And I'm not going to change that nor fight that change.

So what I'm -- what I'm suggesting as an amendment to rule 183-1-13-.05. And it's poll watchers for the tabulation center. (reading): In counties and municipalities using central count optical scanning vote tabulation equipment, the election superintendent shall allow each political party to appoint two poll watchers for each primary or election, each political body may -- to appoint two poll watchers -- I think I might've typed the same thing twice.

But the change would be with the exception of counties with more than 100 registered voters shall allow the appointment of two additional poll watchers per 100,000 registered voters.

So my point is that in small counties -- and my examples that I used in your -- are in the proposal was that Spalding County has 51,689 registered voters, whereas Gwinnett has sixty -- six -- 634,215 registered voters. I've got the Fulton County numbers in here.

I also have the early voting locations and

this is really important. For Fulton County, for an example, on election day, they will have every tabulator in the tabulation center and at some point they will open all of the tabulators and take off the security seals and run the tabulation tapes from those machines.

When you've got 36 voting locations, that means that you've got 72 scanners and half of those typically are in the large cabinets. So you've got a large scanner and you've got a large cabinet with a small scanner in it.

To be able to watch that with that many machines, just that process needs more than two poll watchers. And so it's just a common sense -- I believe, when this -- this law originally came into effect, they were used to saying two poll watchers. And I believe -- I know it was a good while ago -- the counties were smaller. All of our counties, you know, big counties especially, are growing by leaps and bounds.

So this is just a common sense, making it equitable across all county sizes to let the citizens who it is their election be able to monitor what's going on in the tabulation center.

And so that's my proposal.

MR. FERVIER: Thank you. I -- I have a small concern about this one --

MS. ADAMS: Okay.

MR. FERVIER: -- in that I recently had the opportunity to tour Gwinnett County's facility, which is pretty impressive, and I think about Gwinnett County that has 600,000 voters, and so under your proposal they would be allowed to have 12 poll watchers from each party. So that's 24 poll -- or 24 poll watchers in the tabulation center plus independents. I mean, you could get up to 30 people in a room as poll watchers. And to me that seems excessive and it's a lot for those county election officials to have to manage all those poll watchers all over the place.

And so I don't -- I don't disagree that for a facility that size, you -- you might be allowed some more, but I think there's got to be a limit on it so that you're not -- so that you don't have chaos, you know? And I don't think that you necessarily need twelve of each, you know, party running around there and then that superintendent or those election workers trying to manage that process too. And so that's -- that's my concern

about this.

MS. ADAMS: I -- I absolutely understand that concern. And I'm going to be honest. We still -- we do have our Gwinnett Board of Elections member here, but -- but I -- I'm not sure about Gwinnett. Does it have several rooms, several different locations that tabulation processes are going on?

UNIDENTIFIED SPEAKER: One huge room.

MS. ADAMS: One huge, okay.

MR. FERVIER: Yeah.

MS. ADAMS: Okay. Well ...

MR. FERVIER: Yeah. I just -- I just -- I get concerned about all those people overwhelming the staff there and just trying to manage that, you know.

So I think that I do agree that in these larger counties, these larger facilities, there might be more poll watchers needed, but I think that yours goes a little bit -- for me, it goes a little bit too far in adding way too many people to the mix there.

MS. ADAMS: Okay.

MR. LINDSEY: Yeah. Mr. Chairman.

MR. FERVIER: Yes.

MR. LINDSEY: (Off mic) My -- my problem is a little different in that I -- I really like your idea. The problem is I can't --

UNIDENTIFIED SPEAKER: Microphone.

MR. LINDSEY: I'm sorry. Thank you all. I do appreciate it. Feel free to keep correcting me (mic on) which I'm sure you will.

My problem is just the opposite and it gets back to this discussion we had earlier. Someone was going, well, you know, just -- just push the envelope. Well, I can push the envelope sometimes, but I can't go beyond the law. And unfortunately the law says two for the counting centers and -- and says no more than two for an elect -- for a polling place.

So I'm -- I don't know how to get around that and -- and quite frankly, I don't -- and therein lies the problem.

I -- I agree. Two people -- for instance, I've been to Gwinnett County and watched two different elections in Gwinnett County. That was kind of my -- I -- I got chosen to go to Gwinnett and I had a great time.

Gwinnett, you guys -- you guys have a great facility up there. But two people couldn't

possibly be able to observe everything that goes on there, whether or -- I don't know what the right number would be. Probably less than twelve, what he's concerned about, but two -- two's probably too few.

The problem is the law is very specific. It says that the parties may select two people and if that's what the law is, then that's something that we need. And, you know -- and we do have a duty periodically, usually we try to do it in December, to make recommendations to the legislature because they always have election bills to make adjustments. And I'm afraid that's where -- that's where we're going to have to go with this one because the law says two. Unless you can tell me --

MS. ADAMS: Well --

MR. LINDSEY: -- how I'm going to be able to -- to say the law is wrong or -- or come up with another way around it.

MS. ADAMS: Okay. I've got a few things to say to that.

MR. LINDSEY: All right.

MS. ADAMS: First thing I want to do is get my inner Salleigh Grubbs going. And so --

MR. LINDSEY: I know, but, you know, Salleigh -- Salleigh didn't ask me to break the law. Salleigh asked me to figure out a way to make what she wanted fit within the law. And -- and we did. We worked very hard to do that and -- because I -- I thought hers had merit too. The problem is here the law is very specific. It says two. And ...

MS. ADAMS: Well, I -- in my opinion, two things. This -- this amends the law for larger counties. It still says two poll watchers, but it's -- it's, you know, growing with the -- growing times.

MR. LINDSEY: Oh, I -- no, I -- and I agree with you. The law needs to be changed. I'm -- I'm not -- I'm not in any way disagreeing with you. I -- I agree with you.

MS. ADAMS: Okay.

MR. LINDSEY: Because when they came up with two, they probably weren't anticipating a facility like Gwinnett has, which is great, and a facility like Atlanta has -- or rather --

MS. ADAMS: Fulton.

MR. LINDSEY: -- Fulton has and Cobb or DeKalb for that matter. They weren't

anticipating that. The problem is that nobody has fixed that legally. And -- and we simply -- you know, we are a body with limited jurisdiction. And one thing we can't do is -- is make a rule or make a requirement for a county that -- that exceeds what the law says we can do. That's my problem.

MS. ADAMS: Well -- well, I --

MR. FERVIER: One -- one thing this board can do is create a resolution to send to the legislature asking them to increase the number of poll watchers. We -- we can do that.

MS. ADAMS: Well, let -- let me just ask you a question and -- I mean, like was discussed before, that any of these rules amendments would go through the Ledges Counsel -- I don't know -- I can't remember exactly what the term was. Would that be something that you all would feel comfortable with? Because it would get kicked back is my understanding if it didn't -- if it wasn't within the parameters of the law.

MR. LINDSEY: The -- the problem is that the law here is very clear. I'm happy to -- I'm happy to -- to make a motion for a resolution, right now as a matter of fact, that the law needs

to be changed. But the law is -- is quite frankly very specific. I can't just ignore it.

MR. FERVIER: I think it would create a lot of issues for this board when we try and pass rules that are in direct contradiction to what the statute says. And it's -- a more honest way to treat this would be to -- for this board to pass a resolution recommending to the legislature that they increase the number of poll watchers.

But -- but if it went before legislative counsel, they -- they couldn't change the law. I mean, that has to go before the legislature to change the law and they don't have the ability to do that they're just reviewing it, I guess, to make sure it conforms to what they want. But they -- they can't change the law at that period. So this one needs a change in the law itself.

DR. JOHNSTON: Mr. Chair.

MR. FERVIER: Let me --

DR. JOHNSTON: Go ahead. Or --

MR. FERVIER: Yeah.

MS. GHAZAL: The only thing I wanted to point out is that there is a separate provision for observers for the absentee ballot processing. So that is if it happens to be undertaken in the

same area that the law provides for two tabulation observers and two observers for the absentee ballot processing for a certain extent. I know that's not what you're looking for but it -- but those are separate. They're -- they -- they have separate approval processes and those are -- both are -- are allowed under the current statute.

MS. ADAMS: Thank you for that.

MR. FERVIER: Dr. Johnston.

DR. JOHNSTON: Mr. Chairman, a couple of things. The rule designates -- as far as 183-1-13-.05, designated -- locations designated by the election superintendent. And they actually name two -- they say two poll watchers for each location in the tabulating center and they actually name the check-in area, the computer room, and the duplication area, and other such areas as the election superintendent deems necessary.

So actually our rule conflicts with our law, if you're -- if you're saying that we can only have two, it already conflicts with the law.

MR. FERVIER: I can't -- I can't speak about a prior chairman.

DR. JOHNSTON: Right. Well, yeah. I'm not saying -- I'm just saying -- I'm just saying, okay.

So -- so actually, Ms. Adams, you could have -- according to our --

MR. LINDSEY: Actually, the law -- the law does allow two at the -- I -- let me be more specific. The law allows for two in various locations. I'm just simply saying that you cannot -- you cannot simply just have more than two in the various locations. It does have two in the various different locations already --

DR. JOHNSTON: Right.

MR. LINDSEY: -- underneath the rules and underneath the law.

DR. JOHNSTON: Under -- okay.

MR. LINDSEY: The rule simply follows the law.

DR. JOHNSTON: Okay. So the rule does follow the law.

MR. LINDSEY: Yeah.

DR. JOHNSTON: So you already are designated in certain areas to have two in each of those area -- areas. And -- and actually there's a -- seems to be some conflict in the law on 21-2-408,

paragraph (a)(3)(a). It -- it refers to code section 21-2-380, which really doesn't have -- I don't think it has anything to do with the observers.

It actually speaks to absentee elector defined and an electoral who votes absentee shall not be required to provide a reason in order to cast a ballot. Somehow or other there -- it doesn't make sense.

MS. ADAMS: All right.

DR. JOHNSTON: So another resolution to recommend a change to our General Assembly.

MS. ADAMS: I'll support that. So I -- I'd like to ask just for clarification. Are you talking about two additional poll watchers per location that these are in? Or -- you used the word "area," but I didn't ...

MR. FERVIER: Can you -- can you read the rule? Jeffries --

DR. JOHNSTON: So the rule states the political body to appoint two poll watchers for each election and each independent candidate in each partisan -- nonpartisan candidate to appoint one poll watcher for each -- to serve in each of the locations designated by the election

superintendent within the tabulating center. Such designated places shall include areas -- include the check-in area, the computer room, the duplication area -- so those are three different locations in a big 800 square -- 800,000 square-foot warehouse, I guess -- and other such areas as the election superintendent may deem necessary to the assurance of fair and honest procedures in the tabulating center. So --

MR. FERVIER: That's at least six.

DR. JOHNSTON: So it's at least six. And --

MR. LINDSEY: Yeah. And that follows -- just -- just for the record, Dr. Johnston --

DR. JOHNSTON: Right. And --

MR. LINDSEY: -- then you can continue. That follows O.C.G.A. 21-2-408(c) if that's in there.

DR. JOHNSTON: Okay. So as the superintendent, Ms. Adams -- are you a superintendent?

MS. ADAMS: Well, according to law I am, but according to my elections department, I'm not. We've delegated those duties to our elections director.

DR. JOHNSTON: So the area -- so the areas

as -- as the election superintendent may deem necessary to the assurance of fair and honest procedures in the tabulating center.

So the superintendent is the board of elections and registration. So I think it would be appropriate for your board, if you deem necessary for the fair and honest procedures in the tabulating center, to designate additional but being mindful that you -- that one wouldn't want to interfere with the conduct of the election or the workers that are performing their duties.

MS. ADAMS: I believe that there are a lot of counties that don't observe that, especially when it's a county that it's one big room that all these processes are going in -- on in. I believe that I have yet to see a -- a county -- I mean, I haven't been to all fifty-nine -- a hundred and fifty-nine, I'm sorry, but I believe that most counties see that as two totaled. As if they have it all going on in -- even if they don't have it all going on in one room.

But would it be appropriate for the board to send a memo or something clarifying this for each of the counties?

MR. LINDSEY: Yeah.

MR. FERVIER: I believe -- I believe so.

MS. GHAZAL: I think it -- I think the law is not entirely clear because when it says each political party may appoint two poll watchers in each primary or election and then it's -- it goes on to enumerate the locations where they can be observers, I think that -- to say that each election -- and then in each location where it does not refer to the numbers, I think that is stretching the law beyond what the plain text of the language would hold.

MR. FERVIER: The rule that was originally adopted, though, clarifies that further?

MS. GHAZAL: But it -- the legislation is we go from before we start out with what's -- I -- the way I read the legislation is each -- and -- and I do believe it's out of date and I do believe that -- that it should be more -- not as many as -- as perhaps you would like, but I do think that it would require more.

But I think the plain text of the -- of the legislation says each political party may appoint two poll watchers for each election. And these are the areas within the tabulation center that

they are allowed to observe. That's how I read the legislation.

And if I, as an attorney, has a different reading from a different attorney, I think that an interpretation would be better to come from either the general counsel's office or the Attorney General's Office. I don't think that -- if we can't come up with something that we can agree with, we are putting counties at risk and the parties at risk of a violation here and I don't want to do that.

DR. JOHNSTON: Are you referring to --

MR. FERVIER: If we get four attorneys, we'll get four different interpretations.

MS. GHAZAL: That's exactly right. Exactly right.

DR. JOHNSTON: Are you referring to (3)(a)? (a)(3)(a) of 408?

MS. GHAZAL: I -- I am referring to (a)(3)(c). 21-2-408. No, I'm sorry, (b) -- (b)(3)(c).

MR. LINDSEY: And --

DR. JOHNSTON: I don't have a (c).

MR. LINDSEY: And the language is -- in the rule language is one -- 183-1-13-.05 which is

basically word for word what the statute ...

MS. GHAZAL: Yeah. Which is really not helpful.

MS. ADAMS: Okay.

DR. JOHNSTON: What page, Sara?

MR. FERVIER: 348 --

DR. JOHNSTON: 348.

MR. FERVIER: -- (c), at the bottom of 348.

MS. GHAZAL: Yep.

DR. JOHNSTON: Oh, that's just (c).

MR. LINDSEY: Yeah, (c).

DR. JOHNSTON: 408(c).

MR. LINDSEY: And the rule is at 576 (indiscernible).

MS. GHAZAL: Oh, you're right. You're right. You're right. Right. 408(c). Is it 506?

MR. LINDSEY: 576.

MS. GHAZAL: 576.

DR. JOHNSTON: So it -- so 408(c) says the poll watcher in each election serve in a located -- locations designated by the superintendent within the tabulating center. It is consistent then.

MR. LINDSEY: Yeah.

DR. JOHNSTON: Such designated locations are the check-in area, the computer room, the duplication area, and other areas as the superintendent -- oh, it just -- it just copies --

MR. LINDSEY: Yeah. Like -- like I said, the --

MR. FERVIER: It's all one sentence.

MR. LINDSEY: Yeah.

MR. FERVIER: It's all one sentence which means it's -- the way I would read it -- and I'm not an attorney, don't pretend to be one, but it's all one sentence. So to me it reads that you're allowed two poll watchers in each location (indiscernible) because it's all one sentence.

DR. JOHNSTON: And other --

MR. FERVIER: It didn't -- it didn't say two poll watchers, period.

MR. LINDSEY: It says two poll watchers in each primary or election.

MR. FERVIER: Comma.

MS. GHAZAL: Right. And then each political body and then each nonpartisan candidate.

MR. FERVIER: Comma.

MR. COAN: Looks like it's very liberally

construed --

MR. FERVIER: Right.

MR. COAN: -- (indiscernible) superintendent (indiscernible).

MR. FERVIER: To serve in the locations designated by superintendent within the tabulation center.

MR. LINDSEY: In each of the locations. That's the key.

MR. FERVIER: Right. To serve in each location --

MR. LINDSEY: Yeah.

MR. FERVIER: -- in each location -- to serve in the locations designated by the superintendent within the tabulating center --

UNIDENTIFIED SPEAKER: I think the problem's solved.

MR. FERVIER: -- period.

DR. JOHNSTON: Problem solved?

MS. GHAZAL: So you leave it to the superintendent to interpret that.

MR. FERVIER: Yeah, I don't think it's clear.

MS. GHAZAL: Yep.

MR. FERVIER: I think it's -- I think you

could read that either way.

MR. COAN: Y'all can send a letter.

MS. GHAZAL: As I said, I'm not --

DR. JOHNSTON: This appears to be a rather liberally written statute to allow the superintendents to -- for at a minimum of three locations and more as necessary for -- for poll -- for watching -- or actually public observation. All, you know -- all election processes should be available to the public for observation also.

MS. ADAMS: Correct.

MR. FERVIER: I think -- I think it's already addressed in the statute.

MS. ADAMS: I think that based on the -- I want to be nice because I'd like for y'all to, you know. But it seems like there was dispute on how it was written. And I think that most counties see it as two no matter what's going on. Two total. No matter if it's different locations, areas, rooms.

MR. FERVIER: It's interesting that -- if a county decided to have six poll watchers and somebody complained about it and the case came back before the board, how would the board vote

on that?

MS. GHAZAL: Well, I think the superintendents have the discretion in here to make those determinations. It's -- but it is -- it explicitly authorizes the superintendents to determine.

MS. ADAMS: But counties -- the plain text of the law counties -- there are some counties that the superintendent is not the board of elections --

MS. GHAZAL: Well, it is --

MS. ADAMS: -- which is (indiscernible).

MS. GHAZAL: That's right. In some cases it's a probate judge. And the -- they are the superintendent.

MS. ADAMS: Right.

MS. GHAZAL: And the counties in which the board is the superintendent, the board makes the determination --

MR. LINDSEY: Yeah.

MS. GHAZAL: -- as a board.

DR. JOHNSTON: Mr. Chair.

MS. ADAMS: Some counties don't do that.

DR. JOHNSTON: Mr. Chair.

MR. FERVIER: Was that enough noncommittal

for you?

MS. ADAMS: Pardon me?

MR. FERVIER: Yes, member Johnston.

DR. JOHNSTON: So there -- there's probably some confusion that's been generated by the --

MS. HARDIN: This is the -- this was given to me by the Secretary of State's Office, the template for our poll watcher letters that we send out. It says no more than two statewide poll watchers of a particular party may be in the same voting location simultaneously.

MS. GHAZAL: Voting location is different from tabulation center. So that's -- that's -- and that's just for the state-wides.

(Cross-talking)

MR. FERVIER: That's a voting location.

MS. GHAZAL: And it's by the voting location, not tabulation center. So let's --

MR. LINDSEY: Let's not --

(Cross-talking)

UNIDENTIFIED SPEAKER: No one --

MR. LINDSEY: Let's not mix it up there.

DR. JOHNSTON: Don't want to misinterpret it.

MS. GHAZAL: Right. Yeah.

MS. ADAMS: We can just get a little more confused. That'll be (indiscernible).

DR. JOHNSTON: Yeah.

MR. LINDSEY: Bottom line is I think we -- we're going to need to get some clarification from the legislature. And I'm going to need to ask for that clarification.

MS. ADAMS: Okay.

MR. FERVIER: I don't think the board opposes this rule, but the board doesn't see the need for this rule because it's already in the statute that you're allowed more poll watchers.

MS. ADAMS: But not clearly.

(Cross-talking)

MR. FERVIER: Well, it's a -- there's a whole lot in here that's not clear.

MS. ADAMS: That's true. That's true.

MR. LINDSEY: Which is why -- which is why we -- we need to ask the legislature to clarify.

MS. ADAMS: Right.

MR. LINDSEY: And -- and --

MS. ADAMS: I mean, I believe it's one of the big reasons that you guys exist is because the laws are not always clear and for clarification.

MR. LINDSEY: Yeah. No, and I agree. But I can -- I can be the -- the mortar in between the bricks, but I can't be the bricks. How about that?

MS. ADAMS: Right.

MR. LINDSEY: And when the bricks sort of -- sort of set a limit, I can't -- I'm mixing metaphors maybe, but anyway I can't -- I can't go beyond that.

MS. ADAMS: Okay.

DR. JOHNSTON: Is there a problem?

MR. FERVIER: Do what? Yeah, the chair will entertain a motion on this petition unless the petitioner would like to withdraw it.

MS. ADAMS: Well, what I'd really like to ask is if you could give guidance to the counties on the different areas.

MR. FERVIER: Would the -- would the petitioner consider moving this petition to the next meeting so that we have time to get some direction on this?

MS. ADAMS: I would be flexible about doing that, but I believe that would put us past the general election in 2024 --

MR. FERVIER: Yeah.

MS. ADAMS: -- which is the biggest election we'll have for --

MR. LINDSEY: No, it's July.

MS. ADAMS: -- the next four more years.

MR. LINDSEY: July.

MS. ADAMS: You have a meeting in July?

MR. LINDSEY: Yeah.

MR. FERVIER: Well, it hasn't been announced yet. We've discussed --

UNIDENTIFIED SPEAKER: No.

MR. LINDSEY: We definitely have one in August but we --

MS. ADAMS: Okay.

MR. LINDSEY: But we intend to have one in July.

MR. FERVIER: Yeah.

MS. ADAMS: Okay. Then I would be happy to put it off til --

MS. GHAZAL: I -- I would -- I would also recommend that you consider bringing the language a little bit closer to the statute because as it stands this is entirely outside what the legislature -- what legislation allows. But there -- if you look -- try to make sure that you stick within the universe that -- of the

flexibility that is contained in this legislation, it would be a different calculation that we would make.

MR. FERVIER: If you --

MS. GHAZAL: Rather than -- rather than, like, strict numbers looking at the -- the construction that the legislature has created.

MS. ADAMS: Absolutely. I appreciate that.

MR. FERVIER: If we -- if we continue this to the next meeting as is, then we'll have to vote on this. If you withdraw it, then you can revise and resubmit it for the next meeting.

MS. ADAMS: Okay. I will withdraw it and resend it in.

MR. FERVIER: All right. Thank you, Ms. Adams.

MS. ADAMS: Thank you.

DR. JOHNSTON: Mr. Chairman.

MR. FERVIER: Yes. I'm sorry.

DR. JOHNSTON: I'd like -- I'd like to make a motion that we send a letter of instruction to all of the -- to the county board of elections and supervisors pertaining to the particular law at 408 and rule 183-1-13-.05 expressly giving them direction of the -- the ability to have poll

watchers in designated areas and as deemed appropriate just as the law allows and the rule provides for poll watchers.

MR. FERVIER: So you're -- you're asking this board to make the interpretation -- make a more liberal interpretation of this -- I don't even know if liberal's the right word, interpretation of this statute so that more than two is allowed in tabulation centers.

DR. JOHNSTON: No.

MR. LINDSEY: No. I think what she's asking for -- I'm sorry.

(Cross-talking)

DR. JOHNSTON: Go ahead. Tell me what I --

MR. FERVIER: It's your motion.

MR. LINDSEY: I'm not going to -- I'm not going to be accused of mansplaining.

DR. JOHNSTON: Come on, mansplain.

MR. LINDSEY: I'm just not. You can't make me. I'm not going to do that.

DR. JOHNSTON: Come on. Come on.

MR. LINDSEY: I'm not going to -- no, I'm just not going to do that. But I think I'll -- if I may be allowed to say --

DR. JOHNSTON: Please.

MR. LINDSEY: -- what my interpretation would be: to simply make sure the superintendents realize that they have the right to -- to appoint two in each of these designated areas, underneath both the rules and the law.

And they might even send it to both the board and the superintendents and let them squabble about how to get it. And that puts everybody on public notice.

DR. JOHNSTON: Correct. And I would also make sure that when we send the letter, when we speak -- when we say "superintendent," that we specifically designate the board of registration and elections.

MR. LINDSEY: Yes.

MS. GHAZAL: In those counties that have boards.

DR. JOHNSTON: Yes, in those counties. Correct.

MS. ADAMS: Or the probate judge.

DR. JOHNSTON: Or the probate judge.

MS. ADAMS: SB-212 changed all that. But that's not until July.

MR. FERVIER: Member Johnston, before I ask you to restate your motion, are you volunteering

to work with Alexandra on developing that letter?

DR. JOHNSTON: I would be delighted to.

MR. FERVIER: Thank you. And would you restate your motion --

MR. LINDSEY: I'll second.

MR. FERVIER: -- please.

DR. JOHNSTON: Mr. Chairman, I move that we send a letter of instruction to all appropriate counties' board of elections and supervisors, reiterating the provisions found in O.C.G.A. 408 and State Election Board Rule 183-1-13-.05, describing the -- the ability of appointment of poll watchers to designated areas and other areas as deemed necessary to ensure the -- What is the exact word? -- the assurance of fair and honest procedures.

MR. FERVIER: Member Johnston has made the previously stated motion. Is there a second?

MR. LINDSEY: Second.

MR. FERVIER: We have a motion and a second. Any discussion? Hearing no discussion, all those in favor of passing member Johnston's motion signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no

opposition, so moved by a vote of four to zero.

Thank you, Ms. Adams.

MS. ADAMS: Thank you. Can I just say I really appreciate all of you considering this and -- and doing this. And you've mentioned many times that you've been in other counties and things like that. I would love to invite you guys to Fulton County any time you'd like to come see it. And we do have a board meeting tomorrow. If you'd like to come, I can show you around afterwards.

MR. LINDSEY: I -- I can guarantee you that I ain't going to be there.

(Cross-talking)

MR. FERVIER: I can promise you that the board chair will spend some time in Fulton County. And please tell others that we do something occasionally.

The next item on the agenda is petition for amendment of State Election Board rule, presented by Marilyn Marks.

Is Ms. Marks here?

MR. COAN: She is.

PETITION FOR AMENDMENT OF STATE ELECTION BOARD RULE

(MARILYN MARKS)

MS. MARKS: Good afternoon, Mr. Chairman and Board. Thank you so much. My name is Marilyn Marks. I'm the executive director of Coalition for Good Governance.

You all should have a very small slide deck that Alexandra was going to hand out to you to -- to hit the high points here. Excuse me. And for people who are watching this, if you want to see the slide deck, you can go to our website, coalitionforgoodgovernance.org or I tweeted this out today under Coalition Good GV, Coalition Good GV. And you'll be able to see the small slide deck.

I want to make one thing clear. We are not trying to address hand counting in the original count of elections. This is about recounts. We do not support hand counting for large elections for the original count. We believe that the ballots should be scanned by optical scanners and then thorough audits done. This is about the recount rule that the board currently has in place and we want to ask that you bring that in compliance with law which I think pretty clearly requires manual recounts.

And also I want to make clear, as you've had

in the last couple of presentations, we would very much be open to making any friendly amendments on the spot so that we don't have to wait for another cycle to bring this to you. So please recommend any changes that you feel like you need to because this -- this rule, as I think you'll see, is urgently needed. In fact, if you felt like you had the emergency rulemaking powers to do this, I would encourage you to consider adopting it on that basis.

But certainly the rulemaking process needs to begin very quickly. We're looking at, you know, primary elections this month. We'll be looking at runoffs next month, and we could very well find that there are recounts that need to be done and they should be done in a way that the candidates don't have to feel like they have to bring a lawsuit to get it counted by law.

So in -- when HB-316 was passed in 2019, the legislature said that recounts and audits would be done based on the paper ballot printout. And while that might have been a little vague, it's clear that this board has saw that to mean that for audits you need to do the manual count. You need to be looking at the printout of what the --

the -- human readable text on the ballot. And certainly that should be the -- the count for the recount should be consistent with that, just as the legislature says.

Since that time Judge Totenberg, in the Curling case, in her order on the motion for summary judgment that this board made, in just recounting the laws that were in place, she made the interpretation -- not that it had been subject to question, but she just made the interpretation as she was talking about procedures that recounts would be governed by the human readable text that would govern the outcome of a recount rather than the QR code. That happened, I guess, in November of last year.

And then more recently, in March, just last month, when the State Election Board and Secretary of State filed their proposed findings of fact and conclusions of law, what was proposed was that you asked the court to find that recounts and audits should be conducted by human inspection of human readable portion of the paper ballots according to the state's expert and further asking the court to find that the current system is in compliance with this recommendation.

But the rule that had been accept -- or adopted by the previous election board had called for machine recounts instead. And so we believe that is in error, not with the current thinking, perhaps, of this board or other interpretations of the law. And so we are asking that you promptly act to use manual recounts rather than machine counts.

Having a requirement to having machine recount and then go to a court -- for a candidate to have to go to a court to get a manual recount, which is what the law requires, can be really burdensome on a candidate, and it's an expensive thing to do to have to file a lawsuit to do that. But also your current rule does not really tell the candidate what he or she needs to do.

If you've got a candidate that may be running a race in, I don't know, twelve counties, do they have to go to twelve counties to file a lawsuit to get a manual count of their ballots across the twelve counties? That's really burdensome, unfair, and after all it is the law that the manual recounts are required.

And, obviously, as we've seen in 2022 and 2020, machine counts -- machine recounts can

cause unlimited postelection controversy that could be solved with manual recounts.

So what's wrong with a machine recount? Well, if the QR code is erroneously programmed -- and we've seen that happen -- if it's hacked or just human error caused the programming problem, a hand count and machine count can end up showing significantly different totals. And recounting it by machine, you're going to likely get the exact -- the same total you did before and it may be the wrong person who is being declared as elected.

In fact, we all know that that happened in May of 2022 in DeKalb County when there was a coding problem and the machine count was quite different than the hand count and, in fact, reversed the election completely in terms of who won.

If the SEB rule had been proper at that time, what would've happened is before any kind of certification, when they realized there was a problem, there could've been a manual discretionary recount under the law, and then the corrections could've been made in a legal way prior to certification. But that wasn't really

available to anyone. And DeKalb had to really go outside the law to create a process to hand-count the ballots.

Another example -- and you all talked about it yesterday as part of the Rossi complaint -- of course, we're here -- here we are, three and a half years later still dealing with controversies of were the ballots counted properly in 2020? And were certain ballots double-counted or were they -- or were some ballots not counted?

Had there been a proper recount according to the law, that controversy would've been over in November 2020. And the thousands -- tens of thousands of dollars that this board, the local board, and the legislature has spent dealing with the controversies of the 2020 count in Georgia, those thousands of hours would not have been necessary because there would've been a manual recount quite different than anything that happened at the end of 2020.

I was surprised yesterday to hear references made to a hand recount in 2020. There was no hand recount in 2020. There should've been, but instead there was a machine count, a hand-count audit which is nothing like a manual recount, and

then there was a machine -- an improper machine recount. It has never made any sense to me as to why Mr. Trump did not ask for a -- a recount, a manual recount or why Secretary Raffensperger did not want a manual recount. It would've resolved so many problems right there.

We don't really need to relive that again in 2024, either for the primaries or for the November election. And this can be easily solved by having the appropriate rule made to go to the manual recount as required.

I also include in the rule proposals to deal with the opportunity for discretionary recounts which have been in the law for a long time, but they're not very much used. But it is the great opportunity for a candidate or a campaign to be able to get the election superintendent in the county to look at potential problems.

Maybe they don't hit the .5 percent recount threshold, but before we get to certification, if there's a problem, require a -- or not require but have the opportunity to seek a discretionary recount, which is the law now.

But what should happen, though, is that the boards need to be able to deal or, I mean, to be

required to deal with those discretionary recount questions in a transparent way, actually force them to make their decisions in public. And then those discretionary recounts should be manual recounts under the board rule so that controversial errors can be resolved before you get to certification.

Given the November 2024 elections upcoming, so -- there's such high stakes. We don't even need -- we know we don't have any argument about that. The nation will be watching Georgia. It makes all the sense in the world not to relive the kind of controversies we've had before.

And the controversies are probably positioned to get even sharper this year because the touchscreen system has been demonstrated to be vulnerable to undetected vote manipulation, BMDs we now know have generated tallies that can be inaccurate, but no mitigations have been attempted for the known vulnerabilities.

Since that time in 2020, the elections software has been stolen and distributed to unknown numbers of unauthorized people. Software's in the wild. There have been no mitigations.

And then just in the last month, we've seen a cyberattack on Coffee County. It is unknown as to whether or not their election infrastructure has been affected. There's so many reasons that we are facing risk in 2024 in November that a manual recount can go a ways to trying to resolve on the front end and know that controversies can -- many of the controversies can be solved with an appropriate rule in place.

So we would wrap up by saying that manual recounts are required by law, by best practices that this board has even said to the court is the best practice and should be done, and by the current risk environment that we are in that's an even greater risk environment than we were in 2024.

So with that, I'll be happy to take any questions. And again if you can consider proposed rulemaking on an emergency basis since you're not meeting again until July, we would really encourage that, given that we've got at least two elections to certify before the November election. Any questions?

MS. GHAZAL: Ms. Marks, what is the error rate in a hand count?

MS. MARKS: That has been -- there's no one answer to that. That's been debatable for -- for years, but that's not what we're talking about here. We're not talking about a hand count. We are talking about a hand recount.

MS. GHAZAL: It is nonetheless a hand tabulation of ballots where -- and -- and the only cases where a recount is authorized is when the margin is .5 percent or less.

MS. MARKS: It's -- that's not quite right.

MS. GHAZAL: The only -- the only recounts that are man -- that are by law are granted at the request of the candidate are when the margin is .5 percent --

MS. MARKS: Correct.

MS. GHAZAL: -- or less. I have yet to find a study -- and I have read a lot of studies -- where the margin of error is even remotely that small. In other words, hand counts are -- every one that has been studied by MIT, by organizations, by the Brennan Center, by -- and that has been conducted across the country, the margin is greater than the margin of victory.

In other words, a hand count can erroneously change the result of an election simply through

human error. And that to me --

MS. MARKS: No, that's --

MS. GHAZAL: -- is --

MS. MARKS: -- incorrect. That's really incorrect.

(Audience sounds)

MR. FERVIER: Let's be respectful of our speakers, please.

MS. GHAZAL: Every study, every scientific study, if -- if the ballot -- if the printed ballot is a reliable enough indicator for a hand count, it is also a reliable enough indicator for an audit.

I would be wholly supportive of a man -- and -- and this is something that I recommended in 2019. I would be wholly supportive of a mandatory audit of any machine recount. But to do a full count, especially when we -- if we're looking at a statewide election, we know that that takes days and days. And even when it's done in an abbreviated fashion, it was still an incredibly chaotic event.

And every hand count that we have seen across the country in the last 24 months has resulted in enormous errors.

MS. MARKS: I don't think that that is -- is correct, but, regardless, what we have proposed in our rule addresses on the front end making sure that it is an accurate hand count as numbers would be reconciled back to the machine count to try to find where the errors were.

And given that we know we don't have reliable paper ballots for all sorts of reasons and we know that we've got problems the -- the two elections that I mentioned, you know, May 2022 in DeKalb, I don't think there can be any reasonable argument made that we should've accepted what came out of the machines.

MS. GHAZAL: And we didn't because that was -- that was an occasion -- and I would argue that it was wholly within the confines of the law because the machines -- they could not certify the machines on the re -- on the recount and they just -- justifiably did a hand count and it was a programming error.

But if -- if the -- if the ballots are reliable enough to trust a hand count, if they're a reliable enough record to trust a recount by hand, they are a reliable enough record to trust a machine count and an audit.

UNIDENTIFIED SPEAKER: Audits are different than --

MS. MARKS: No, that's very different and --

MS. GHAZAL: I understand, sir.

UNIDENTIFIED SPEAKER: (indiscernible)

MS. MARKS: But -- but we -- we don't accept the proposition that if it's reliable in -- in many of the ways -- we don't accept that proposition. But I would suggest that as you work through the logic and you work through the law, there was a reason that the law was made to say use the paper ballots and what is reflected on the paper ballots as the basis of a recount.

You know, we have seen many reports of BMDs being misprogrammed and the QR code or the barcode has been miscounted.

MS. GHAZAL: And an audit would identify that.

MS. MARKS: No, it wouldn't. No, it wouldn't, particularly with Georgia's audit laws. It -- it absolutely would not unless that race happened to be -- to be caught -- you know, selected for an audit.

But we know that the -- under the new law that's going into effect that the selection of

what race is going to be audited is going to be done on a subjective basis by what many people have considered to be a partisan-driven operation. So there is no assurance that an audit is going to catch the kind of errors that you're talking about.

Also I would say this board has already said that it is best practice to do manual count for the recount. And experts across the land agree on that. It -- it's hard to believe that we're even having this debate about whether or not the manual recount's appropriate to do. Even if, yes, there are errors in hand-counting and there are errors in machine counting. And that's the whole point, is to try to make sure that if there are machine count errors that they don't survive.

But if you notice our rule, it does require reconciliation, find what the problem was, not just accept whatever the hand count is as the gospel.

MR. LINDSEY: If you would, ma'am, tell me exactly where in 21-2- --

UNIDENTIFIED SPEAKER: Microphone.

MR. LINDSEY: Thank you. Tell me exactly where in 21-2-495 do you believe that the -- that

the -- that the recount has to be done by hand.

MS. MARKS: It's not in 495. It is in 379 dot -- oops, I've got a -- a bad cite here. It's in 21-2-379 dot -- is it 25?

MR. LINDSEY: Okay, that's fine. I just -- I'm -- I'm looking at your thing. That's --

MS. MARKS: Yeah, but it's talking about a reference to a hand count. Excuse me, to the recount. It's saying --

MR. FERVIER: Are you looking at 23 -- 21-2-379.23(d)?

MS. MARKS: It's probably .23, yes. I had a typo. Yes, that's exactly what it is. Thank you for the correction. But it's just referencing 495 as the recount statute.

MR. LINDSEY: 21-2-379.25, you said?

MR. FERVIER: Point 23.

MS. MARKS: I think it's 23.

MR. LINDSEY: Oh, there we go. Okay. I got it. I got it. I got it. I got it right here.

MS. MARKS: And I think I've cited it here on the second page.

MR. LINDSEY: Yeah, okay. I'm sorry. I see that now. I missed it earlier.

MS. MARKS: Well, it didn't help that I had

a typo in there.

MR. FERVIER: I -- when -- when I read -- I'm sorry, when I read that statute, that particular statute, I think that you could just as easily interpret it that, yeah, you have to use that paper ballot that is produced when you vote, but it doesn't tell me whether I have to count that by hand or whether I can take that paper ballot and put it in a machine and count it. And that's -- that's what when I read it as a nonattorney, just a person, I -- it doesn't tell me whether I have to count it by hand or count it by machine.

MS. MARKS: Right. It -- it could be worded more clearly, that's for sure. But this board has interpreted that for audit purposes it means hand audits.

So if you read that the recounts that your official vote for -- for a recount is the machine vote, but your official vote for a -- for a audit is what's printed on paper, that seems like a very inconsistent interpretation and it end -- you end up with an illogical result, that you would end up with a different number as your official count.

MR. FERVIER: How many -- how many ballots are included in an audit?

MS. MARKS: It would totally depend on the size of the election and the margin.

MR. FERVIER: Is it -- but -- but you're not counting every ballot. You're auditing a certain number of ballots.

MS. MARKS: That's right. And that's why you don't end up with an official count there.

MR. FERVIER: Is it -- is it possible that for a county like Gwinnett that has 600,000 voters -- how many is it exactly?

UNIDENTIFIED SPEAKER: Six hundred and forty, 630,000.

MR. FERVIER: Six hundred and thirty, 640. Six-hundred-plus-thousand voters and they wanted to audit that election. They may choose to audit 10 percent.

MS. MARKS: Well, that's a whole new debate.

(Cross-talking)

MR. FERVIER: Is it --

MS. MARKS: There's a whole new debate about what -- what they can do under the new law, but generally what we would hope is that they use the risk-limiting audit formulas and that will

determine how many ballot --

MR. FERVIER: It's only percentage of --

MS. MARKS: -- based on --

MR. FERVIER: It's only a percentage of the total vote.

MS. MARKS: It's -- no, it's not exactly a percentage, but -- oh, obviously, it'll end up with a percentage of the total votes.

MR. FERVIER: Right. It's not the total votes, percentage of the vote.

MS. MARKS: It's usually a small fraction unless the margin is really, really thin.

MR. FERVIER: Could it -- could it be -- I hate to put myself in the mind of a legislator. Could it be that the legislature -- the thing says it's okay to do a hand recount on an audit because it's a less amount number of votes that they have to deal with. And when you're looking at a huge number of votes, it's okay to do a machine count. But even with an audit, which is a much smaller number, it's okay to do a hand recount.

MS. MARKS: It -- it would be pretty inconsistent for them to say, Well, it's -- We want you to do an audit, but that audit will not

mean anything. Because generally what most states make clear is that if you do an audit and you find a discrepancy of any significance, what the solution to that is to do a recount. Then to go back and do a machine recount when you know there's a discrepancy there would be illogical.

So it would seem logical that the -- that the legislature means what it seemed to have said is use the hand count to determine what your official result is.

MR. FERVIER: What if you do two hand counts and they don't match?

MS. MARKS: I don't know why you would do two hand counts. Are you talking about -- if you did two hand counts and they don't match -- and that wouldn't be surprising -- you'd reconcile and find out why, just like we are recommending that if there are material differences between the machine count and your hand recount, that you reconcile them and figure out, oh, did we miss a precinct? Did we count something backwards? Are we missing a box of ballots?

MR. FERVIER: Why couldn't you just do two machine counts and reconcile the difference?

MS. MARKS: Because your --

MR. FERVIER: If it was a (indiscernible).

MS. MARKS: -- machine may -- your machine, like in DeKalb County, may be counting incorrectly.

MR. FERVIER: As a re -- as a hand recount.

MS. MARKS: No, I thought you said two machine counts --

MR. FERVIER: I said --

MS. MARKS: -- I apologize.

MR. FERVIER: -- (indiscernible). It's possible to find inconsistency when you do two hand counts; correct?

MS. MARKS: Oh, it -- it is. And if they --

MR. FERVIER: And it's possible -- it's possible to find inconsistencies when you do two machine counts.

MS. MARKS: It -- it absolutely is. Right. And that's why normal practices would be if they're significant at all, then you reconcile and try to find out why. You don't need to track down every single small difference, but if you're showing any kind of material difference, you would definitely try to reconcile and find out why your counts came out differently.

DR. JOHNSTON: Mr. Chair -- or Ms. Marks --

MR. FERVIER: Yes.

DR. JOHNSTON: Technology has certainly improved and become more available and more cost-effective.

MS. MARKS: At least more available. Sometimes --

(Cross-talking)

DR. JOHNSTON: Yeah, depending --

MS. MARKS: -- I think we've gone backwards.

DR. JOHNSTON: Depending on who you ask.

So optical character readers will actually read the text, the printed text on the ballot. Would you consider that a viable option for a recount?

MS. MARKS: No, I -- absolutely not because, one, it's not part of the state certified system, you know. The -- you know, we can't just have kind of random technology thrown into an official vote-count situation. The -- the state has said you're either going to hand count or you're going to machine count depending on what stage we are in in the election. Not, oh, we're going to bring in some new technology that hasn't been certified, hasn't been tested, and -- and it will be the official vote.

DR. JOHNSTON: Right.

MS. MARKS: Remember a recount is going to be the official tabulation, the official final number. So it really needs to be something that we have a high degree of confidence in.

DR. JOHNSTON: So when QR codes are no longer on Georgia ballots, which some people predict that will eventually occur, will a machine count of the marked ovals be sufficed for an adequate recount?

MS. MARKS: Certainly not. No, because, as we all know, scanners can be misprogrammed as well. And in fact, I believe that's probably what happened in DeKalb. And if -- if scanners are misprogrammed, we don't want to get the same wrong result twice.

DR. JOHNSTON: Correct. Because you're only -- you're only measuring the intersection of an x and y on the ballot when you're using your optical character reader or you're reading a QR code, right.

So -- so would a -- would a machine count with a mandatory hand-counted audit provide the -- the necessary validation of an accurate count?

MS. MARKS: I don't --

DR. JOHNSTON: For you?

MS. MARKS: -- think so. No. I don't think so and I don't think that would meet what the legislators wanted because remember that, you know, if you're going to set -- if I understood your question correctly, if you're going to try to do an RLA -- is that what you were meaning by an audit?

DR. JOHNSTON: I'm not interested in RLAs.

MS. MARKS: Okay. So what kind of -- what kind of audit would -- are you thinking about there then?

DR. JOHNSTON: I'm interested in a more traditional audit.

MS. MARKS: Right. But if we -- you know, if we've got a race that qualifies for a recount, we're talking about a margin of half of 1 percent or less. So it's going to be awfully hard to select a sample where you're sure -- a small sample in an audit that you're sure you are going to find the right winner with the machine -- you know, auditing a machine count.

Your -- your sample size is going to get -- have to be so large you're going to end up with

lots of ballots to have to -- and then you'll -- you still won't be at a hundred percent confidence level. You'll still be probably -- I don't know what your assumption is when you saying doing the audit. I don't know if you're thinking of 90-percent confidence level or 95 percent.

DR. JOHNSTON: Okay.

MS. MARKS: But we're talking about when really, really close elections need to have that level of assurance that we got it right.

DR. JOHNSTON: Do you know how -- how often recounts are -- are -- you've -- I know you have all the research, how often recounts are done in Georgia?

MS. MARKS: I don't. We could go back and figure that out. We tend to hear about them more at a county level. Sometimes they don't really get reported up to the state. So I don't have that research. But it's -- it's not like it's happening every day and causing the election officers to have to work for weeks on end.

We're not talking about hand counting every race on every ballot. We're talking about those that qualify for a recount under the law that

is -- is -- we just talked about that's less than .5 percent margin or a discretionary recount when the board concludes: Things don't look right here. We need to -- we need to do a recount before we certify.

MR. FERVIER: Ms. Marks, just my personal opinion. Human error concerns me equally as much as machine error does. I've been in --

MS. MARKS: Me too.

MR. FERVIER: -- business a long time. I was a math major in college, and I think I understand counting a little bit. But most of the people I deal don't unfortunately. And I -- I worry about human error a lot. And I -- I probably worry less about machine error than I do human error, frankly, from my own personal experience because I see so much of it.

And it seems like every time that we have a major hand recount or count of something, I remember the horror of the -- you know, the Bush-Gore, I guess, election in Florida where they're looking at hanging chads and trying to decide who won that election. And the -- and the weeks that it took to do the count -- the recount in Arizona and things like that.

And I -- I worry about those kinds of things when we talk about hand counting the ballots. So I -- it's just a personal -- personal issue that I have to ...

MS. MARKS: But, of course, that's not what we're talking about here. Hanging chads are a thing of the past. That's not hand counting --

MR. FERVIER: No, I understand.

MS. MARKS: -- of -- of marks on a ballot. What Arizona did, that was not a recount. That's -- that was a whole different animal driven by some really illogical things. That was not a hand recount.

And I'm guessing, just because I've been in the trenches for so long in different states, I've probably observed more large hand counts than most people in this room have. And I'll be the first to tell you that large hand counts do find a number of inaccuracies. And they are very hard to do and they are hard from a chain-of-custody standpoint.

That's why we would never recommend that be the first count. The first count needs to be a quick machine count, but we also see lots of programming problems in scanners and

touchscreens, et cetera. And the only way you can solve for those programming problems and potential hacking problems is to have a hand count to mitigate against those machine counts.

And, again, I agree with you that hand count has error potential just as machine counts do. But hand count has error potential, that's why we said reconcile any significant differences. Go figure out where the problem is. And one of the things we suggested in our proposed rule is use the machines if you need to as a -- as a resource to help you with any discrepancies that you have. Put them back through the machine and see if you can figure out -- see if that helps you figure out where your discrepancy is.

But if you've got a programming error you really need to do a hand -- a hand count. There's just no way around it.

And I would respectfully disagree on DeKalb. DeKalb had to go make up rules that are not anywhere authorized by law or by your rules. They had to make something up to end up creating a count for certification purposes.

I guess it -- bottom line, though, it seems that regardless of what our personal opinions

are, the law as it would be interpreted in a consistent way, as interpreted by court, as interpreted by the board's experts and the board's attorneys who asked the court to find in their findings -- in the court's findings that this -- that recounts be done manually.

MR. LINDSEY: And who's this that that --

MS. MARKS: I'm sorry?

MR. LINDSEY: Who was this that asked for it? You said someone from the state in the state's --

MS. MARKS: You -- your board and the Secretary of State in your proposed findings of fact.

MR. LINDSEY: Do you have that with you?

MS. MARKS: I have a cite. Yeah, actually I do have it with me.

MR. LINDSEY: You have it with you?

MS. MARKS: Uh-huh. And it's also on here --

MR. LINDSEY: You mean they asked for it in the brief to the -- to the judge?

MS. MARKS: Yeah. It is --

MR. LINDSEY: I'd like to see that.

MS. MARKS: Okay. The cite is -- and I

will -- I will definitely get it to you. But it's doc -- document 1821, paragraph 108.

MR. LINDSEY: Do you have the language? Oh, do you have it on your computer?

MS. MARKS: Yes, uh-huh. Just if you'll give me one second, I'll pull it up.

MR. LINDSEY: Yeah.

MS. MARKS: Yes. You will --

MR. LINDSEY: Document 1821?

MS. MARKS: Yes, 108.

MR. LINDSEY: I'm sorry, you said document?

MS. MARKS: 1821. I know it's crazy to think we're at 1800, huh?

MR. LINDSEY: Yeah. And it was at page 108?

MS. MARKS: I think it's paragraph 108.

MR. LINDSEY: Paragraph 108.

MS. MARKS: Right. And you all were quoting Dr. Juan Gilbert.

MR. LINDSEY: So I want to make sure. Are you --

MS. MARKS: Maybe it's --

MR. LINDSEY: You're -- you're saying that that was the position of the lawyers for the state advocating to the -- that this is what should be done?

MS. MARKS: Uh-huh, yes. And what is being done. I'm sorry, I said paragraph 108. It is page 108.

MR. LINDSEY: Okay.

MS. MARKS: So the -- the language of it reads this. It's paragraph 459.

MR. LINDSEY: Okay.

MS. MARKS: This is referencing Juan Gilbert, Dr. Juan Gilbert, your expert. Specifically Dr. Gilbert testified that the National Academy of Science reports recommendations that, quote: Elections should be conducted with human readable paper ballots, period. These may be marked by hand or machine using a ballot marking device. They may be counted by hand or machine using an optical scanner.

Here's the operative para -- sentence: Recounts in audits should be conducted by human inspection of the human readable portion of paper ballots.

Then it goes on a while. And then -- again, this is in the proposed findings: The court notes that no party disputes that Georgia's BMD system conforms with this recommendation.

MR. LINDSEY: Can I -- you mind if I see that?

MS. MARKS: Certainly.

MR. LINDSEY: I'm sorry.

MS. MARKS: And -- no problem. And let's see. There's -- that's where the paragraph starts. That's the National Academy --

MR. LINDSEY: Okay. I understand.

Someone else can ask questions.

MS. GHAZAL: Would not a -- a hand-conducted audit of a machine count also be a -- a hand examination of the human readable marks?

MS. MARKS: It would be an examination but it wouldn't be a recount. I think that's the same question that Dr. Johnston had.

DR. JOHNSTON: Yep. Beg your pardon?

MS. GHAZAL: Just kind of reiterating that an -- a machine-conducted recount with a hand audit afterwards, I believe, fulfills the recommenda -- would meet the recommendations by the National Academy of Sciences as well.

So I'm -- I'm agreeing with you. You should write it down.

MS. MARKS: So -- so the sentence says: Recounts and audits should be conducted by human

inspection of the human readable portion of the ballot -- paper ballots.

I understand your concerns about the accuracy of -- of hand counting. Completely agree. But your accuracy is going to go up remarkably when you're only counting one race when you were doing it under SEB rules for a manual recount. You all have very clear and really, really good rules for a manual recount.

And one of the great things about it, unlike the machine recounts and unlike the hand-count audit that was done, is that each campaign has an assigned counter at that table so that you've got somebody from the Republican party, you've got the Democratic candidate's campaign there, the Libertarian candidate has a chance to be at the table as a counter.

And so you've got, you know, all of the interested parties along with watchers, along with transparent tally sheets that can -- that the public can overview. This is how you build confidence in elections, is have a transparent process like that.

MS. GHAZAL: We may have good rules but we don't have good training, and this is not the

sort of thing that can be done at the spur of the moment. I mean, I -- we've seen time and time again when the -- when the state and the counties are caught flat-footed and with being thrown into a new process or procedure, it is error-ridden.

And I cannot imagine between now and November being able to train a hundred and fifty-nine counties and giving them the responsibility to recruit thousands and thousands of volunteers to conduct this and to have that more accurate than one half of 1 percent.

MS. MARKS: Well, what are you going to do when you know you've got a machine count -- you've got a machine programming problem?

UNIDENTIFIED SPEAKER: Correct.

MS. MARKS: You know?

MR. FERVIER: The Attorney General has a comment that he'd --

MS. GHAZAL: Okay, yes.

MR. FERVIER: The chair recognizes the Attorney General's Office.

MR. WILLARD: Thank you, Mr. Chairman. As you're aware, contrary to some earlier raised assertions that this board is somehow advised by the Office of the Legislative Counsel, we provide

counsel to the board. I will say I'm -- I'm sort of hampered in regards to this petition for the reason that our office had to declare a conflict in the litigation brought against this board by this petitioner.

Ms. Marks and her coalition are an adverse party to this board in federal court and litigation that our office is not representing the board. Ms. Marks has now gone beyond the petition and is attempting to buttress the arguments in support of her petition by alluding to items from the docket in the Curling litigation in which she remains an adverse party to this board.

As a result of that and not knowing what the unintended consequences of adopting this rule, which had been unsuccessfully pushed by Ms. Marks and her coalition in the seven years that that litigation has been pending, I believe it would behoove this board to reject Ms. Marks's petition so that it can consult with its attorneys in Curling to make certain that should the board engage in rulemaking, it does not do so in a way that imperils the state's position and this board's position that has been taken in Curling

that our office is unaware of.

MR. LINDSEY: Well, let me ask you this, Russ. I'm not so much worried -- I hate to say -- and my lawyers won't be happy with this, but I don't really care too much about the Curling case other than the outcome, you know. I -- I'm not worried about that position, frankly. I'm just worried about making sure that we do the right thing.

But I would like to hear from our lawyers as to whether or not they have, in fact, advocated for the position of a paper recount as opposed to an electronic recount. And for that reason, I want to ask you is it within my discretion here to move to continue this to the July hearing so that we may consult with our lawyers as to their research as to the experts who reviewed this for the state to see whether or not, in fact, you know, based on -- on those experts hired by the state on my behalf, I guess, to see whether or not this sort of paper recount is, in fact, the gold standard or whether or not a recount by machine is the gold standard with a -- an audit by paper?

So can I -- is it within my discretion,

Russ, to simply move to continue this so that we can make sure that we get this right? And I respect Ms. Marks. I'm -- I'm -- yes, we're technically an adverse party but more importantly we're both individuals worried about making sure that the elections are correct in this state.

So, Russ, is that -- is that within my power -- our power?

MR. WILLARD: So let me -- let me preface that I am appreciative of -- of your comments, that I am just trying to advise the board as best I can in a matter that is intrinsically tied up in litigation that our office is barred by the rules of professional conduct from becoming involved in or taking any active participa --

MR. LINDSEY: And I know that, Russ. I didn't mean that as a rebuff to you.

MR. WILLARD: But I -- and I'm going to answer your question. The answer to your question is no, it is not within your power to continue this to the July meeting. You can either -- if Ms. Marks is willing to withdraw her petition and resubmit it for the July meeting, you can do that, or you can reject the petition or you can initiate rulemaking proceedings.

But I would urge the board to refrain from doing that just because I cannot advise the board --

MR. LINDSEY: I understand.

MR. WILLARD: -- as to what the current posture of the Curling litigation is and/or what arguments have been made by the board's attorneys in that litigation.

MR. LINDSEY: Let me ask you this. And let me ask Ms. Marks -- you're going to be part of this -- if Ms. Marks were to agree to withdraw her petition, can we take note of the fact that the petition that she's previously draft -- that she put into place, we can make note of the fact that it's -- that it's resubmitted as is so that she doesn't necessarily have to file a whole new paperwork. Can I do that?

In other words, I don't want -- I don't want to make -- make someone do an artificial jump through the hoops. If we have -- if we have her petition but we -- but we want to be able to consult -- but we want to be able to consult with our lawyers and we want to be able to consult with the experts hired by the state on this issue prior to making any kind of rule changes, can --

can -- if Ms. Marks withdraws the petition, can we take note of the fact that her petition has been resubmitted without her actually having to do so? I don't see why we can't, but you're my lawyer. You see what I'm trying to do here?

MR. WILLARD: I believe I understand what you're trying to do. I think you could have an agenda item for consideration of a board rule where you have a draft rule for consideration for the board to consider it for promulgation. And you can note either in the agenda item or what that this was -- had its genesis in Ms. Marks's original petition.

But you have to dispose of her petition in one of three ways today. Either you reject it, she withdraws it, or you initiate the rulemaking proceeding.

MR. LINDSEY: All right. I gotcha.

MS. MARKS: May I?

MR. LINDSEY: Yeah.

MS. MARKS: Okay. Is that Mr. Willard who's speaking?

MR. LINDSEY: Uh-huh.

MS. MARKS: I just heard you reference him as Russ, so I --

MR. LINDSEY: Yeah.

MS. MARKS: -- wanted to make sure. So maybe Mr. Willard did not get a copy of our petition because I -- I think he -- he's not aware -- he said that we've gone -- in my stating what the proposed findings of fact were, he said we've gone beyond --

MR. LINDSEY: I'm not --

MS. MARKS: -- the petition.

MR. LINDSEY: I'm not worried about that.

MS. MARKS: Okay. I just wanted to make sure he knew --

MR. LINDSEY: I'm not -- I'm not worried about -- I'm trying to, quite frankly, simply get to this point where we can consider your -- your thing --

MS. MARKS: Right.

MR. LINDSEY: -- your petition at the next --

MS. MARKS: Well, maybe this will help clarify --

MR. LINDSEY: -- at the next hearing, while in order to give us an opportunity to consult with -- with the attorneys for the state and the experts for the state and take a look and see

whether or not we -- we should move forward with your petition at that point. That's all I'm trying to --

MS. MARKS: Okay.

MR. LINDSEY: Seeing how I don't get -- I don't get the benefit of a lawyer from the state right now because he's in conflict.

MR. FERVIER: Ms. Marks --

MS. MARKS: Understand, but just would like to make this point as well. This issue is actually not at all -- I think Mr. Willard misunderstands. This issue is not at all in front of the court. It -- it was not anything that has been debated. He, I think, may be mistaken or having our case confused with another one. This has never been in front of the court. We've never argued it. We don't have a position on it. Sounds like we don't even have opposing positions on it. This was just as Judge Totenberg, in her motion for summary judgment order, was kind of just recounting how elections are conducted in Georgia. That's all.

MR. LINDSEY: I understand, but you yourself brought up the fact that the state has made certain recommendations --

MS. MARKS: Yes.

MR. LINDSEY: -- and certain -- certain assertions that, quite frankly, I would simply like to be able to consult with our lawyers --

MS. MARKS: Okay.

MR. LINDSEY: -- on that issue. And with the lawyers -- and you also cited experts that were retained by the state on this issue, and I would simply like to be able to consult with them before moving forward with the petition. That's all I'm saying.

MS. MARKS: Okay.

MR. LINDSEY: And --

MR. FERVIER: Ms. Marks --

MR. LINDSEY: And so that's why I'm going to ask you if you would, with the chair's permission --

MR. FERVIER: I'd like to make a statement first.

MR. LINDSEY: You're -- you're the chair.

MR. FERVIER: I -- I have read this and read the code and prior to this meeting I have learned a lot of new things today. I feel like I need more time to think about this and the implications of it. And so I understand that

board member Lindsey is going to ask you to withdraw. I would also ask you the same thing so that I can fully consider this. It is -- it's a very important issue to me.

MS. MARKS: It is. It is important and I think it's --

MR. FERVIER: And I --

MS. MARKS: Excuse me, I'm sorry.

MR. FERVIER: I don't feel like I can give it everything I need to give it today. And I -- so I'm asking the same thing.

MS. MARKS: I appreciate that. And I appreciate your willingness to look into this further. Let me suggest something that -- that might facilitate it on both sides a little better.

And that is if you don't feel like you can move this forward for rulemaking, go ahead and deny the petition with the letter that we get from the board that gives the rationale for denying the petition.

And then what I will do is respond to your concerns, tweak the rule that responds to your concerns, in a way that hopefully responds to your concerns, and resubmitted it before the next

meeting.

MR. LINDSEY: Move to reject. Move to reject.

MR. FERVIER: Any more questions from the board?

DR. JOHNSTON: I -- I am interested in recounts using hand recounts. But I would like to know how often recounts are initiated either by the superintendent or by the candidate by margins of the election.

And I'd also like, if -- if possible, some assessment of the cost to the counties or the election offices or the state for conducting a recount vers -- of a machine count versus a hand count, the people involved and the time involved. I'd like a comparison of -- of those factors if that's possible. I would appreciate that.

MS. MARKS: I -- I would love to have that information available, but I don't think we can get it. I think the board through the Secretary of State probably has the best opportunity to get it because many of the recounts that we become aware of don't really -- they're not -- there's not much in the way of documentation.

And sometimes I'm not sure that they even

make it up to the Secretary of State's level of -- like, I'm aware of a municipal election in Greene County in the year -- last year or year before last, that there was, like, a one-vote difference in -- and then it went to a manual count.

We were aware of it because we were involved in talking with the candidates, working with them, recommending the manual recount. But that -- we just happened to hear of it. I doubt there's a bit of documentation anywhere about that. And I don't know that I would get it, that I would know how to find it in Georgia. So I don't want to volunteer to get you something I probably can't find.

DR. JOHNSTON: Right. I suspect at time -- that there might be some rationale to say it would be easier to automatically move to a hand recount because it's not unusual these days that the machine recount brings into question the -- the programming of the machine or the proper counting of the machine.

So rather than doing that and then moving to a hand count which actually extends the recounting period altogether, maybe there's

some -- some logic and rational to just going straight to a hand recount in -- in these situations.

MS. MARKS: And, you know, I think that Georgia has an unusual but very flexible law on the discretionary recounts. I'm using the word "discretionary." It's not used in the law, but the fact that a candidate, a campaign can -- and, actually, I think voters can come in and say, This just doesn't look right, Board of Elections, will you do a discretionary count before you certify? We haven't seen it used very much, but it certainly would be helpful.

DR. JOHNSTON: It's not used very much and -- and it is at the discretion of the superintendent. And it could be a recount of just a precinct or a whole -- an entire contest.

MS. MARKS: Or just the absentee ballots --

DR. JOHNSTON: Right.

MS. MARKS: -- or -- yeah, whatever --

DR. JOHNSTON: Right. And certainly at the discretion of the superintendent if there's any inconsistency or some request by a can -- you know --

MS. MARKS: Right.

DR. JOHNSTON: -- a candidate of an inconsistency.

MS. MARKS: And that's what our rule recommends is that that decision of the superintendent be a more transparent one.

We've seen a lot of candidates go to their superintendents, ask for a discretionary recount, and be told, No, it's not in the law, you can't do it. And won't even call a board meeting to ask.

So we were just suggesting that it become a more transparent ask and answer.

DR. JOHNSTON: Correct. Well -- well, you certainly want every losing candidate to request a recount.

MS. MARKS: And I don't think most would, but -- but if it just looked like it was willy-nilly, then the superintendent would say, No, you're not showing us any reason that there's a problem. But if -- if you were in DeKalb, as I -- as I know you were, but if you were in DeKalb in 2022, there was a reason to say we better do something, right?

And as you recall, initially the DeKalb -- DeKalb officials were saying the tabulation's

correct, the tabulation is correct, when it wasn't.

UNIDENTIFIED SPEAKER: Then did it against the court order.

DR. JOHNSTON: So I -- I also would agree that I need more study on -- on this. Not to say that I'm opposed to what you're proposing at all, but maybe some more information to see what -- what repercussions this would have as far as manpower, cost, time in implementing this. But ...

MS. MARKS: Okay. Well, you know, I -- when we get your denial and the rationale for the denial, then we will try to respond accordingly and put it back in front of you as soon as you'll have another meeting.

MR. LINDSEY: Okay.

I think I have a pending motion, Mr. Chairman.

MR. FERVIER: I'm sorry. I ...

MR. LINDSEY: I think I have a pending motion.

MR. FERVIER: Another motion?

MR. LINDSEY: No. That's -- that --

MR. FERVIER: Oh, I guess you did a pending

motion. We have a motion from member Lindsey to deny --

DR. JOHNSTON: I didn't even hear it.

MR. FERVIER: I'm sorry? He didn't -- he made a motion to deny these -- this petition. Do we have a second?

MS. GHAZAL: Second.

MR. FERVIER: We have a motion and a second to deny the petition. Any discussion? Hearing no discussion, all those in favor of denying this petition signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, so moved by a vote of four to zero. Thank you, Ms. Marks.

MS. MARKS: Thank you for your time.

MR. FERVIER: Look forward to seeing your renewed petition.

MS. MARKS: Okay.

MR. FERVIER: I have one announcement I wanted to make and I forgot to make it right after lunch. Many of you know that the governor signed the budget yesterday. And in the budget, the State Election Board was given $5 million to conduct an audit of this fall's elections. I

guess this coming -- coming fall's. We will be looking working closely with the Secretary of State's Office on that since we have limited staff sitting right here to do that. We'll be working closely with the Secretary of State's Office.

Member Lindsey will be representing the board and the liaison with the Secretary of State staff to work through the mechanics of effectuating that audit. And Dr. Johnston and I will be working within the board to make sure that the board is fully apprised and plays a part in that audit and are overseeing everything. I would be the person myself dealing with the SOS but I do have another full-time job.

And I know you do too.

MR. LINDSEY: Yeah.

MR. FERVIER: So I just wanted to make that announcement so that you know going forward we have plans for that and we'll be working very closely to make sure that that takes place this year as much as we can. Thank you.

PETITION FOR AMENDMENT OF STATE ELECTION BOARD RULE

(DAVID CROSS)

MR. FERVIER: And the next item on the agenda is -- what are we on? Five? -- petition for amendment of State Election Board rule presented by David Cross. I know Mr. Cross is here. He's been here for two days now.

MR. CROSS: I feel like I need a sleeping bag. All right.

So hopefully these will go rather quickly. I've got two of them. The first one is going to be printing -- printing in color for emergency ballots.

MR. FERVIER: Is there a reason you wore a salmon colored ...

MR. CROSS: One must have a pocket color, you know? That's just -- and you should have one too. I don't understand this guy. You've got to -- you've got to dress it up a little bit.

All right. So with regard to the color printing on emergency ballots, what we're talking about here is I'm talking about literally inserting the word "salmon" into rule number 183-1-12-.01. The superintendent shall cause every polling place and advanced voting location to have a sufficient number of salmon-colored blank paper ballots that can be marked by pen

available for -- for use in the event of an emergency.

So the reason for this rule is that there's currently a lack of visual distinction between emergency ballots and standard ballots. And in -- in 2020, Fulton County ordered 1 million emergency ballots, which was two times as many of the number of voters in all of Fulton County and it was 17 times the number of people that -- that voted on election day in Fulton County.

So also with regard to -- this has to do with maintaining chain of custody and strengthening -- strengthening that -- strengthening the chain of custody because in -- in 2020, we had Mark Wingate on the -- you know, on the board of elections. In his recent testimony in the Jeffrey Clark disbarment hearing, said that: So to pick up where you're talking about, we're asking for and not receiving chain of ballot -- or chain of custody documents. That's the question put to Mr. Wingate.

Mr. Wingate responded and said: Well, we asked and did not receive any chain-of-custody documentation. So how can I trust anything as a board member to certify this election when I

cannot receive even a sampling of anything at all with regards to chain-of-custody documents? It was just another way of things in my mind leading up to certification that was certainly -- leading up to certification that was certainly not fulfilled in terms of providing those documentation -- or providing that documentation.

So even today if you put an open records request with -- with Fulton County and say: How many of those ball -- of those million ballots that you guys took in -- how many were destroyed or how many were used? They're going to answer with: We have no -- we have no records to satisfy your request.

So my -- my whole point here is to -- is to just simply -- you've already got a rule -- insert salmon -- salmon color on there. Salmon-colored ballots are not going to -- are not going to disrupt the scanners. It's not going to disrupt the technology. And as far as cost goes, because I know that that -- that tends to be a big issue nowadays, the cost is roughly one-half cent per ballot and if that is the case -- if Fulton County, you know, printed all of theirs in 2020, five hundred thousand -- or a

million ballots at a half a cent apiece would've been roughly $5,000 of additional -- of additional costs.

And for a county like Bartow County right now, I think it would cost an additional $17. So its -- the cost is insignificant in order to satisfy this request. And I think if you got visually distinctive ballots, it will make it so that they can't be easily potentially pilfered, picked up, or misplaced.

How was that for fast?

MR. FERVIER: The quickest among anybody else. I -- I -- why make them a different color versus just marking emergency ballot on them someplace?

MR. CROSS: They're already marked emergency ballot. But the thing is is --

MR. FERVIER: So why -- I don't understand the color differentiation then.

MR. CROSS: The court differentiation is to make it so that if you -- if you're a poll worker or a poll manager anywhere, you know, in all of any county, seeing those ballots will be visually distinct. They only get used in certain situations, like the power -- you know, like,

the -- the machines go down. There's some -- there's some type of, you know, emergency issue that -- that causes that.

So you're not going to have just, like, one person come in to vote and then they're going to use, you know, a salmon-colored ballot and then you could easily pick them out. That -- that's not case.

The whole point is to make it so that they're visually distinct because if you -- if you saw that there were no emergency situations that happened and then you're watching salmon-colored ballots, you know, go -- you know, going through a scanner being counted, you know you've got a -- you know you have a chain-of-custody issue going on.

DR. JOHNSTON: Mr. Chair.

MR. FERVIER: Yes.

DR. JOHNSTON: The heading on an -- on a paper ballot, a hand-marked paper ballot has absentee, slash, emergency, slash, provisional. So they're -- they -- right now as it stands, they can be used interchangeably. So I think this -- the -- this creative idea is to give a visual distinction.

An alternative would be to print absentee ballots and separately print provisional emergency ballots which would be kept in the polling places in precincts so -- so that they -- the header would -- would distinguish that. But the visual is very creative.

And I saw this used in municipals this past year and it's -- it's great. It's just a visual -- an immediate recognition of a certain ballot that belongs to either a certain pre -- they used it for different precincts actually.

But it was -- it was -- it was great to keep the separation. It actually helped the poll workers keep track of proper choice of ballots to give to -- to voters. So I hadn't thought about it in this use. But I think it's a great idea.

MR. CROSS: I agree. And to go back to -- to go back to Fulton County for a second, in 2022, in their general election, they had a 112,659 people that voted, you know, by -- by paper ballot. And if -- if 20 percent -- or voted, I'm sorry, like, on -- on election day. If 20 percent of those were printed -- and currently the estimate is that they -- they generally, you know, print 10 percent. But if

you doubled that number, that'd be 22,531. At a half a cent apiece, it would cost Fulton County an additional hundred and twelve dollars.

MR. FERVIER: You know, I have to say that I think if -- you know, I don't know why you picked salmon but if you wanted honesty and integrity, you'd go with yellow and black.

MR. CROSS: I'm an Auburn man myself, so we couldn't put orange on those. But here's the -- here's the thing. So the reason why -- the reason why salmon is on there is because it is -- it is a color that is -- that is least disruptive to scanning equipment.

MR. LINDSEY: Let -- let -- I'm sorry, go ahead.

MS. GHAZAL: I have a real concern about maintaining the constitutional guarantee of a secret ballot. There are very, very few emergency ballots that are generally cast on election day. Generally it's going to be one or two people who are willing to do it because either they want -- either there isn't a problem, the problem is resolved quickly, or the -- the voters prefer to return and cast their ballot normally.

So if you have a ballot with -- from one precinct that is on salmon paper, then the -- whoever voted on that ballot automatically lost their constitutional guarantee for a secret ballot because their ballot is distinguishable from everybody else's.

MR. CROSS: Not when it's scanned. When it's scanned it goes into black and white.

MS. GHAZAL: But if it's -- but the ballots are in there. And -- and it goes into black and white, but it's going to be in grayscale and white scans white, colored scans in grayscale. You're going to see that and -- and you're -- and the ballots -- the paper ballots are still there and when the -- and there's a very high chance that it would have to be adjudicated because these are hand-marked paper ballots by definition --

MR. CROSS: I don't know why --

MS. GHAZAL: -- and they're just --

MR. CROSS: -- it would have to be adjudicated.

MS. GHAZAL: Well, there is -- it easily could. I -- and did you talk -- remember we also now have to have watermarked paper ballot.

Everything has to be watermarked. Everything is going through that. Is that the -- the quote that you got for the -- the special watermarked paper that we're going to be using or just through a regular print shop?

MR. CROSS: It's a -- you know, it's two -- it was two print shops that were, you know, talking about specialty paper. They approximated half a cent per -- per ballot.

MS. GHAZAL: Do we know how much the special watermarked paper is going to cost per ballot?

MR. CROSS: Does that matter?

MS. GHAZAL: Yes, it does.

MR. CROSS: Why -- why does it matter?

MS. GHAZAL: Because it was -- because this would also have to be done on special watermarked paper and -- and salmon paper. Every ballot paper by law, now, has to be on the special watermarked paper. So that would -- that would change the cost of it. But my real --

MR. CROSS: I mean, personally I would --

MS. GHAZAL: -- concern is -- is -- is the constitutional guarantee of a secret ballot.

MR. CROSS: I don't want to take away anybody's right to secrecy. If it was my ballot,

I would have, like, a blue ribbon, like, from a hundred dollar bill, you know, inside -- you know, inside a ballot, you know, so that I could see, like, random numbers on there because when we're scanning ballots and looking at them and looking for duplications, that's -- you've already been told that a -- so if you and I walk into a precinct together and we vote exactly the same, which I know is highly irre -- impossible, okay? But if we did, if we did, I can hold those ballots up to the light and your QR code is going to look exactly like mine. Everything else on the ballot's going to look exactly like mine.

So right now, the Dominion machines have the ability to be able to mark a ballot that has been scanned but the Secretary of State has not activated that feature on -- on the system.

So I'm willing to -- I'm willing to do, you know, whatever it takes to make it so that we can have better -- you know, better processes and chain of custody. But I -- I don't -- I think if -- I think if somebody goes in and they have to use an emergency ballot like that, I think it's going to be a case where you're probably going to have -- it's -- that's going to happen

because you've got a power outage or something like that, and everybody who's going to be going in is going to be using that -- is going to be using a salmon-colored ballot.

DR. JOHNSTON: I've seen time and time again most -- most voters are unwilling to use emergency ballots because they don't like it. They want to vote regularly, so they'll come back and you'll only have a handful of emergency ballots every time it's been used.

MR. FERVIER: We heard one of those cases recently --

MS. GHAZAL: Yep.

MR. FERVIER: -- where the first couple of people that voted had to use an emergency ballot --

MS. GHAZAL: Right.

MR. FERVIER: -- in -- in just a couple out --

MS. GHAZAL: Right.

MR. FERVIER: -- of the whole day.

DR. JOHNSTON: But were those voters designated as using emergency ballots on their vote record?

MR. CROSS: You can't see that.

MS. GHAZAL: Any observer who is there at the time is going to know. Any -- any poll watcher, anybody else there is going to be able to identify -- because you can see the salmon ballots from across the room.

MR. CROSS: But the only way that that's going to happen -- I mean, with due respect -- is going to be for somebody -- somebody to observe that. They're going to have to walk over to the check-in station, see who that individual is, write that down, and then report it, you know, somehow. I mean, I think the -- I think -- as a poll manager myself, that's -- I can't see that possibly happening.

I mean, I -- I'm a poll manager in -- you know, in Gwinnett County. And that's just -- that's just never -- you don't see people, like, you know, walking across, like, trying to check out, like, how somebody's voting.

MS. GHAZAL: When you're in the small counties, people are intimidated to go because they don't want -- I -- I've talked to many voters in small counties who are unwilling to vote in primaries because they don't want anyone to know what ballot they pulled because it can

affect their jobs.

So we've got a hundred and fifty-nine counties to cater to, not just -- not just the big four.

MR. CROSS: Well, even with -- even with the big counties, you know, again, I'm -- I'm kind of back to, you know, the hundred and forty-one transgressions that you -- that you mentioned yesterday against Fulton County.

They got a sharp wag of the finger and they got no -- there was no financial repercussions. Y'all didn't assign them, you know, the -- you didn't assign them to have to -- you didn't assign Fulton County to have to pay, you know, the investigative costs, which you could have done. That's -- that's in the rules.

You know, I -- I just think it's -- I think it strange that somebody like Fulton County can go print a million -- a million emergency ballots. And they only had 59,000 people voted on election day in 2020. That's just -- defies logic.

It makes me think what was somebody up to. And the only way that I know how to -- you know, to prevent nefarious actors in the future is to

use something that is obvious and color-coded.

MR. LINDSEY: Mr. Cross, I just want to make sure that -- that you know --

UNIDENTIFIED SPEAKER: Microphone.

MR. LINDSEY: -- feel -- feel for the --

Thank you.

Make sure to let you know and -- and for the record, you know, GAVREO is the organization of our -- of our county superintendents. And they raised similar issues to what -- to what the board member questioned. This is exactly what they -- and I want to put it on the record. GAVREO agrees that chain of custody of unvoted ballots is extremely important, but does not agree that changing the color of ballots would assist with chain of custody in any meaningful way.

Beyond that, we oppose the proposed rule for two reasons. One was the voter privacy issue. Situations that require emergency ballots may only involve a small number of voters or even a single voter, particularly in rural areas. In those cases the voter ballots would be easily identified. Two -- and I'm not sure -- you've -- you've already addressed that issue. But feel

free to address it again.

The second point is -- is the wasted ballots. The rule would force us to order more ballots than we currently do and that would accomplish nothing beyond forcing us to account for, secure, and eventually destroy an even larger number of unused ballots.

It's also worth noting that the print vendor that is referred to in the rule is not a ballot printer, cannot order or procure security paper, and does not seem to know that the actual cost of ballots would take new legal requirements into account. It says, See HB-974. Just putting that on the record and giving you a chance if you want to respond.

MR. CROSS: I -- listen, I think -- I think that's fair. I mean, you know, the new paper, the new secure paper that's out there, I mean, there's a -- there's a limited number of people that have access to that. Me, as a citizen, if I just -- if I call the state and say, Hey, who's the vendor? you know, who's -- you know, and try to get a quote from them, that's something that I can't do. That's something that the board is able to do.

MR. LINDSEY: Okay.

MR. FERVIER: Are there further questions from the board? Questions?

MR. CROSS: Do y'all have any concerns about, I mean, what I rose about -- about Fulton County?

MR. LINDSEY: Yeah. That's why I'm -- I'm --

MR. CROSS: A million. A million ballots.

MR. LINDSEY: That's why I'm getting a monitor for them, okay. I have a lot of concerns about it. You know, that -- that -- that's why I'm trying to negotiate and get a monitor organization in place that can properly monitor.

I'm just not convinced that while -- while I understand you're trying to address a particular problem for a particular large county, I'm not convinced that this is something that works well for a hundred and fifty-nine counties as opposed to what we're trying to do with getting an organization to monitor Fulton County or, for that matter, should any other county come up.

I think that's probably a better way to deal with the concerns that you've raised than -- than the particular colored ballots which may work in

large areas but may have some very greater concerns in more rural areas where there's a smaller number of people who -- who may very well be worried about secret ballots. I just want to make sure you understand that.

MR. FERVIER: Any further questions? Dr. Johnston?

DR. JOHNSTON: No.

MR. FERVIER: The chair will entertain a motion.

DR. JOHNSTON: I move that we accept -- I can't remember the correct wording.

MS. HARDIN: Initiate rulemaking --

DR. JOHNSTON: Initiate rule -- initiate rulemaking procedure for this petition for the provisions of 183-11-.01, paragraph 3. Is that right? No, no, oh, sorry.

MR. LINDSEY: Dr. Johnston, I'm not going to entertain -- I'm not going to go with you on the motion but I'll give you the language if you need it.

DR. JOHNSTON: Yeah, give me the language. Yeah, I mean, I can't even find the thing.

MR. LINDSEY: Here's the language given to us by our attorney. I hereby move to initiate

rulemaking of the proposed -- proposed petition at -- proposed petition.

DR. JOHNSTON: Agree. Yes. In your words. I'll second your motion.

MR. LINDSEY: No, I'm not making it. I'm not making it for the reason I stated to Mr. Cross, but I just wanted to give you the language.

MR. CROSS: Well, board members, I'm willing to work with whoever's going to be, you know, working on writing this thing up. If it turns out that -- you know, that they say, Hey, the salmon-colored -- if it's your determination, you know, moving forward on trying to -- trying to come up with some type of security issue, you know, to -- to make this tight -- you know, a tighter chain of custody, I'm willing to say, Hey, it doesn't have to be salmon. But maybe if the ballots, you know, are printed in such a way that it is obvious on -- you know, on the same colored ballot but it -- but it has different wording on it so that they all don't look the same, the major -- that -- that's the major thing to be able to look for because as a citizen if I'm going through and looking at scanned images

of ballots and I'm told that only x number of ballot -- emergency ballots were used but I'm finding x plus a thousand, then that's going to, you know, leave me to -- you know, to believe that something happened, you know, incorrect.

MR. FERVIER: Our only three choices today are to approve it, deny it, or you can withdraw it and work with one of the board members to revise it and resubmit it.

MR. CROSS: Can we do that by July, you think?

MR. FERVIER: We have another meeting by -- in July and you could resubmit it for the July meeting, yes.

MR. CROSS: Okay. I'll -- I'll withdraw and -- and rewrite.

MR. FERVIER: Thank you. The petition for rules change has been withdrawn.

DR. JOHNSTON: I'll withdraw my motion.

MR. FERVIER: Thank you. Withdraw motion. Now, Mr. Cross, are -- are you next?

MR. CROSS: I'm next.

MR. FERVIER: Oh, boy. Keep losing my agenda here.

MR. CROSS: You said it was really small.

MR. FERVIER: Too many papers. I know, but it's late in the day.

MR. CROSS: All right. I should be able to blaze through this one as well too.

MR. FERVIER: Let me read --

MR. CROSS: Okay, I'm sorry.

MR. FERVIER: Let me do my part.

MR. CROSS: Okay.

PETITION FOR AMENDMENT OF STATE ELECTION BOARD RULE

(DAVID CROSS)

MR. FERVIER: The next item on the agenda is to hear a petition for promulgation of state board rule presented by David Cross.

Mr. Cross, please proceed.

MR. CROSS: Thank you. So this -- this is a -- this is a rule that would be drafted regarding meaningful observation and helping to define what meaningful observation means. As it stands right now, meaningful observation should include visual and auditory observation, witnessing, watching, verifying, monitoring of election forms, et cetera, and being able to be close enough that you can see and hear, you know, what -- what's going on.

As it stands right now, meaningful

observation is not adequately defined. Our legislature seems to have, you know -- seems to have a field day using words like "meaningful" and then not telling us what meaningful needs -- or what that means.

So this has to do with the fact that, you know, specifying bipartisan witnesses, how they're -- you know, how they're to be chosen, how they're -- you know, and basically how they are supposed to be able to have access to see what's going on during the election.

This was actually written by an attorney.

MR. FERVIER: (indiscernible)

(Cross-talking)

MR. CROSS: So it's a fun one.

MR. LINDSEY: That doesn't make it --

MR. FERVIER: (indiscernible)

MR. CROSS: He's a -- he's a very, very bright guy. I think you all know him, but I'm not going to name him.

So in past elections, poll -- this is bullet point number 4 that -- that's in the matter. Says: In past elections poll workers have been treated inconsistently among various counties with wide-ranging subjectivity, assigned to poll

watcher access into election tabulation processes.

So we're trying to bring uniformity and definitions into the meaning of -- to meaningful poll watching.

MR. LINDSEY: Let me start off. And I'm -- I want to read to you once again. GAVREO opposes this one as well.

MR. CROSS: Who -- who is GAVREO again?

MR. LINDSEY: It's basically -- it's the organization of the county election superintendents.

MR. CROSS: Awesome.

MS. GHAZAL: And supervisors.

MR. LINDSEY: Hm?

MS. GHAZAL: And supervisors.

MR. LINDSEY: And supervisors. Let me -- let me -- yeah, and let me read to you and then give you a chance to -- to respond.

Observation by credentialed poll workers is tantamount to transparent elections. However, portions of this proposed rule are in conflict not only with existing law but also with newly passed legislation.

The proposed rule conflicts with state

statutes that govern voter registration, election officials, and poll watchers. For example, poll watchers are prohibited from seeing certain documents explicitly allowed by the rule, as well as reporting issues to the poll manager as the rule would require.

It's also worth noting that we do not officially track political affiliation in any way. We do record which primary election that a voter chooses to participate in but this doesn't imply their party affiliation, just what primary they chose.

Just want to give you a chance to respond to that.

MR. CROSS: Well, we're looking -- we're looking for total transparency. I mean, the United States Declaration of Independence says that a just government is accountable to its people.

And based on the fact that y'all have been dealing with a lot of these meetings going on for the last three and a half years, and I've been dealing with -- with this stuff as well too, Ms. Marks has been dealing with this, Mr. Favorito has, you know, it is very clear that

the people of the state are upset with the way that elections are handled or maladministered.

The Constitution of the United States of America provides for a series of checks and balances not only between the branches of federal government but between the federal and state governments to ensure that the rights of the citizens are not infringed by state governments, including the rights to transparency and accountability.

So this is all about bringing uniformity to the practices and the proceedings for all -- you know, for all election officials across the state and, again, just defining what meaningful observation is. Because as we've seen in the past and y'all've seen on the news before, meaningful observation in some cases was, you know, you can come into -- to where we're counting the ballots. I'm going to be counting over here on this machine, and you can stand over there in that back corner 25 feet away and you can watch what I'm doing from over there.

I was poll watcher. I did -- I went to Fulton County. I went to -- you know, I went to State Farm Arena. I couldn't see anything. I

mean, I got -- I got so bored that I walked over and I started looking at -- at the ballot totes. And I got thrown out because I pointed at one with my foot and said, Look, that one's unlocked. And they threw me out.

MR. FERVIER: I -- I sympathize with you on this and agree that there ought to be some more standards for meaningful observation. My problem with this is it doesn't really define for me clear enough what meaningful observation is.

And your definition and my definition -- your definition as a poll worker and my definition as a -- as an observer might be different, you know? My definition might be you can observe it clearly from 2 feet away and your definition might be I've got to be a foot away to see it, you know?

And so I think that it needs a little more work to kind of set some boundaries on what meaningful observation is because it's just still open to a lot of interpretation here for me. But I agree with you that -- that -- and having dealt with some of these cases already, that there's some -- a lot of inconsistency out there.

But I just think that it needs a little bit

more definition than what you're suggesting here. And so -- some language as to distance may be what it --

MR. CROSS: That's fair. That's fair.

MR. FERVIER: For me -- for me that's -- I need -- I need some more context here.

MR. CROSS: Okay.

MS. GHAZAL: Correct me if I'm wrong, please, but I believe that we just now, as of yesterday, have a new law on the books that poll watchers may be as close as practicable. The -- the legislature --

MR. CROSS: Again a useless word.

MR. FERVIER: Well, what does that mean?

MS. GHAZAL: Yes and no. You know, like I said, because I -- I -- meaningful observation absolutely requires --

MR. CROSS: Yeah.

MS. GHAZAL: -- that you can see the processes that you're allowed to see and that you can witness that.

But my problem is this -- this law not only mandates that -- that counties -- that bipartisan teams must be part of all of this -- which means if a county cannot find a bipartisan team or if

somebody doesn't show up, they can't conduct their election appropriately, the way it's written -- it also has the teams actually undertaking the activities. Because it -- it says that they shall observe or undertake. And that turns the entire election staffing on its head. And that is they -- so they would not be sworn full officers, working and actually undertaking the election, but it would be the bipartisan teams.

Some states do it that way, but our legislature has not created that structure. Our legislature has -- has created a structure whereby it is -- the onus is on the partisan, the parties, to decide whether or not they have the volunteers to do it and they must be allowed. But to say that these -- these processes must be overseen means that you've hamstrung counties where they can't actually find volunteers.

And I've heard time and time again -- because there are certain activities that have to be undertaken by partisan teams, like vote review panels. And some -- some counties have a devil of a time finding volunteers just to show up to be on these panels. To increase the pressure on

the counties to find bipartisan teams for -- before they can undertake any of these activities would really grind election activities to a halt in some of our counties.

We wouldn't have a problem finding -- finding folks in metro areas, but in -- in Ben Hill County, if you -- you can't find a bipartisan team and you can't -- and the state party can't find somebody to send down to Ben Hill County -- and frankly, I don't want somebody from Atlanta down in Ben Hill County. I want Ben Hill County folks to -- to do those elections.

So the -- the structure that's been created here I think is unworkable with a hundred and fifty-nine counties.

MR. CROSS: Do you think there might be something where we -- we could -- you know, where we could put something in there about, you know, having -- that the -- that the superintendent, you know, has to ask for volunteers before unilaterally just assigning people? Because Fulton County just unilaterally assigns people, whereas I know other counties, you know, try in good faith to go out and find volunteers.

MS. GHAZAL: Well, I think -- I think the

onus has to be on the parties to find and assign the volunteers and then they -- the process is the parties find the people that they want in the polls and in the tabulation center and -- and to monitor the -- the absentee process. That's the structure that the legislature has put -- put forth. And I think that's where the onus has to remain, on the parties to identify the folks and then the counties to allow them to observe the processes.

But to allow them to observe the processes that are defined in statute because this goes a little further than that.

MR. CROSS: Okay. So just help me -- help me out as far as, like, understanding what you think is like -- also, like -- like, meaningful observation. I mean, like, anybody -- I mean, like -- like, John, you said two to four feet depending upon who it is. I mean, because my eyesight might be terrible and yours might be great. So ...

MR. FERVIER: You're right, but everybody has their own personal space and the last thing you want is a poll watcher looking over at -- you know, someone's shoulder and almost physically

touching them.

So I think there's got to be -- I don't know what that number is, frankly. I just know that we need to define it a little bit better. You know, maybe it's two feet. Maybe it's --

MR. CROSS: That's fine. I mean, I'm just -- I'm just trying to get a sense of, like, you know, what the -- you know, what the board would, you know -- might be willing to entertain. So ...

MR. FERVIER: Yeah. Because I -- I'd just like it defined a little bit better than what's in here. I don't know the answer to that --

MR. CROSS: Totally fair.

MR. FERVIER: -- right -- right now.

MR. CROSS: Okay.

MR. FERVIER: So do you understand what I'm --

MR. CROSS: Yes.

MR. FERVIER: -- my concerns?

MR. LINDSEY: And -- and perhaps -- if I may, Mr. Chair.

MR. FERVIER: Yes.

MR. LINDSEY: And perhaps sort of focus on not so much even the distance but what -- what

you want to be able to observe. For instance, you gave a good example a little bit earlier when you talked about you went down to State Farm Arena and you got so bored because you couldn't really see anything.

You know, what, in terms of distance -- don't so much worry about feet, for instance, worry about the distance has to be close enough for you to see XYZ, okay?

MR. CROSS: Okay.

MR. LINDSEY: That, I think, oftentimes gets you around that other issue of, you know, some artificial number because, you know, I don't have -- if I don't have these glasses on, I'm -- I'm toast.

MR. FERVIER: But maybe it's a -- maybe it's a -- should be able to observe within a certain distance.

MR. LINDSEY: Yeah.

MR. FERVIER: You know, so it's not -- so you'd be able to observe it within five feet or --

MR. LINDSEY: Within five feet in order --

MR. FERVIER: Yes.

MR. LINDSEY: -- to see XYZ.

MR. CROSS: Okay.

MR. FERVIER: Yeah.

MR. LINDSEY: And sort of focus your proposed rule on -- all right, you know, what are -- what are the key things you want an observer to be able to see? And focus -- and, you know, that observer, you know, and have a caveat -- while not interfering with the operation -- must be able to see XYZ. And sort of focus on that --

MR. CROSS: Okay.

MR. LINDSEY: -- in terms of the rule.

DR. JOHNSTON: Mr. Chair.

MR. FERVIER: Yes.

DR. JOHNSTON: Several things to address. What you want to see is important and as I read this, I would -- I would say that an observer would want to be able to see the numbers on the counter as -- just as if you were a candidate running for office, you would like to -- as the votes are being counted, you would like to be a witness to that or -- or the observer would like to be a witness. So they should be able to read the numbers and whether that's reading the numbers on a scanner or -- and a server, they

should have access to seeing those numbers as they roll up or as they count up.

And one -- one way to -- maybe rather than leaning over someone's shoulder would be to -- for a county to offer a camera display of the -- of a camera on -- on those numbers to project it on a screen --

MR. CROSS: Okay.

DR. JOHNSTON: -- so observers -- you see the camera, it's on the screen, now it's projected up on -- you know, on a big screen for everyone to see without you hanging over and passing some --

MR. CROSS: Yeah, that would get rid of some of the --

(Cross-talking)

DR. JOHNSTON: -- cold along to the workers.

MR. CROSS: -- concerns about interference.

MR. FERVIER: That -- that can get real expensive though --

DR. JOHNSTON: Right.

MR. FERVIER: -- if you're talking about multiple scanners, multiple numbers, and have to put them on a screen. I -- that can get real expensive, I think, for some of the smaller

counties or some of the bigger counties, frankly, with the -- I -- I -- it's a good thought but I just see that as being a possible technological problem and --

MS. GHAZAL: As an alternative though. As an --

MR. FERVIER: Yeah. As -- yeah.

MS. GHAZAL: -- you know, that counties can have the option of doing one or the other --

DR. JOHNSTON: Correct.

(Cross-talking)

MR. FERVIER: Yes. Yeah.

MS. GHAZAL: -- like (indiscernible) or providing (indiscernible) --

MR. CROSS: It's fairly inexpensive to livestream, like, with -- I mean, our phones nowadays are, like, 2K. I mean, they're unbelievably, you know, good quality images. So I will -- to save us time and let y'all get moving on, I will withdraw this with the -- with -- you know, with the understanding I can bring it back in July with -- you know, with tightened up language.

MR. FERVIER: I'm already starting to like you better.

(Cross-talking)

DR. JOHNSTON: But I have -- I have a few more comments.

UNIDENTIFIED SPEAKER: I think -- I think we're already --

MR. CROSS: Yes.

MR. LINDSEY: -- scheduled to see you anyway, right?

UNIDENTIFIED SPEAKER: Exactly.

MR. CROSS: Only because you love me.

MR. FERVIER: So we --

DR. JOHNSTON: All right. I --

MR. FERVIER: We will accept your withdrawal. I'm sorry.

DR. JOHNSTON: Oh, I had a few more questions.

MR. FERVIER: Oh, I'm sorry. I am so sorry.

MR. LINDSEY: He's withdrawing --

(Cross-talking)

DR. JOHNSTON: You guys, y'all are talkers.

MR. CROSS: No, no. She has some suggestions. Might as well get them on the record.

DR. JOHNSTON: I'm just being polite.

MR. LINDSEY: I will say this. My only

caveat is we have to close out at 4:45 and I want to get to the last one.

MR. FERVIER: I think -- I think member Ghazal actually is leaving here in about five minutes. We -- we will still have a quorum. We'll be able to finish the last one.

MR. LINDSEY: I just want --

(Cross-talking)

DR. JOHNSTON: Didn't -- and Rick had something too.

MR. COAN: He's still on here.

MR. FERVIER: He's still on, yeah.

DR. JOHNSTON: All right. And -- and as I read this, this defines meaningful observation of particular items, none of which are PII. So these -- these are numbers, forms, closing tapes, whatever, numbered voter list, nothing -- nothing that is PII actually. So I like that.

And the issue with the -- the stopping the election process because the bipartisan team is not available, I read this: That the superintendent shall proceed with ballot processing as scheduled.

MR. CROSS: Correct.

DR. JOHNSTON: So if the -- if the party

didn't provide --

(Cross-talking)

MR. CROSS: If they can't -- if they can't find people. Yeah.

DR. JOHNSTON: -- then the superintendent proceeds on; correct? Am I reading that right?

MR. CROSS: It -- it does, but you know what? I -- I would like to have something in there that says that the superintendent, you know, should have to reach out, you know, to the parties ahead of time and can't just unilaterally decide that that's what they're going to do.

DR. JOHNSTON: Okay. So all right. I'm done.

MR. FERVIER: Thank you.

MR. CROSS: Thank you.

MR. FERVIER: Thank you for your withdrawal. We greatly appreciate that.

The next item and last item -- well, I take that back. We have one more item after that on today's agenda.

Would you like to go ahead and leave?

MS. GHAZAL: Sure. Let me get the (indiscernible).

MR. FERVIER: Member Ghazal will be --

MS. GHAZAL: Yes.

MR. FERVIER: -- leaving. We still have a quorum in place. Member Jeffries is still on.

MR. COAN: Still on, yes.

MR. FERVIER: Okay. Member Jeffries, you're still on?

MR. JEFFRIES: Yeah, I'm still here.

MR. FERVIER: Thank you, okay.

PETITION FOR AMENDMENT OF STATE ELECTION BOARD RULE (MICHAEL HEEKIN)

MR. FERVIER: The last item on the agenda -- the second to the last item on the agenda is petition for amendment of State Election Board rule presented by Michael Heekin.

Mr. Heekin, please.

MR. HEEKIN: Thank you, Mr. Chairman and members of the board. We've already had a fulsome discussion of certifying elections today. I just wanted to share a personal experience.

I'm a fairly new member of the -- of a board of registration and elections. Last -- last fall we had municipal elections in Fulton and other places. There were some issues with the state new voter information platform which I'm optimistic and con -- are -- are being worked

out.

But also we had some issues with redistricting. People weren't getting the right ballot styles, et cetera, et cetera. So when it came time for us to certify the election, I thought I would just open the green book and -- and see what the definition of certifica -- to certify the results of an election is. It doesn't exist.

I think that it would be helpful for us. Speaking personally and for every other board of elections member, we don't like to vote no on certification. Anything you could do to help us get to the truth will -- would be greatly appreciated.

So one of those things as an early modest step would be to define what it means to certify the results of an election. The done -- having -- went to the -- started researching this. I came up with -- the best definition available is the United States Election Assistance Commission has an entire publication on election certification.

I suggested the board adopt the -- their definition of certification which reads: The

process of election is the process of election officials attesting that the tabulation and canvassing of the election are complete and accurate and that the election results are a true and accurate accounting of all the votes in the election.

And I would suggest to you that we add to that simply "certify the results of a primary election after reasonable inquiry" because it makes it clear that this is not a ministerial act where I take out a stamp pad and stamp it and say hereby certified. There is a -- there is a higher order process, mental processes that go on in this.

And if we could get this definition, I won't get any more nasty letters from lawyers threatening to put me in jail if I don't certify. So I urge your -- your approval of this modest improvement to the election laws of the state of Georgia.

MR. LINDSEY: Can I ask you -- I mean, Mr. Chair.

MR. FERVIER: Yes, please.

MR. LINDSEY: Can I ask you if -- you know, we're already taking up this issue. You were

here earlier and testified. Can I ask you if you would be willing to withdraw your petition with the understanding that you're going to work -- be part of -- work with us when we come up with what we were already talking about in terms of the necessary information that you should be receiving prior to certification.

I understand the definition. But I -- I want to try to do it all together. You know, you guys should be getting certain -- certain kinds of information. I think we're all in agreement of that and we all want to try to figure out, you know, the language that needs to be done in a particular rule so that prior to any certification you have that information and then incorporate your -- your -- a definition that you'd be comfortable with. And one rule rather than trying to do it in piecemeal. That's what -- what I'm asking you.

MR. HEEKIN: Yeah. I -- I want to say yes because it's almost 4:30. I want to understand the process better because the definition of certification, regardless of what -- in fact, this would guide what you -- you need, putting together the information needed. So why not get

this in place now?

MR. LINDSEY: Well, we're not going to be able to get it in place anyway because you heard the process that has to take place.

MR. HEEKIN: Yeah.

MR. LINDSEY: So that's what I'm saying. I mean, it's not a matter of us voting and it's suddenly in place. We're going to be having to go through --

MR. HEEKIN: There's rulemaking in there.

MR. LINDSEY: There's a lot of rulemaking steps that have to be done --

MR. HEEKIN: Yes.

MR. LINDSEY: -- before we get to that point anyway. And since we're already going to be dealing with your issue in terms of what information you should be getting so that you can have a meaningful certification, I just want to be able to do it together. It's not -- you know, we -- we fortunately have a little bit of time before November. And I'm simply asking you if you would be willing to let us do that.

MR. HEEKIN: I certainly want to cooperate but what I'm saying is is --

MR. LINDSEY: I hear what you're saying.

MR. HEEKIN: -- that if you -- if you understand what's the bogie, the bogie is the tabulation, canvassation(ph), dah, dah, dah, dah, dah, then you'll be guided by what you -- what -- what we need.

But I would defer to the board if that would assist in getting this done because I'm incredibly excited. We want to vote yes on certification. I'm incredibly excited that the board might help us help the directors of election exactly what we have -- we should be able to see before we make the certification vote.

If that -- if withdrawing this assists in that effort and if the good faith expressed here today continues through for another three -- two months, I'm -- would be happy to do that.

DR. JOHNSTON: I would -- I would love to initiate rulemaking for this. And in reviewing the -- the history of the rules that we have, I've seen there are rules that were approved and adopted and then actually two months later there's an other one, a revision or an amendment.

So it's not that -- that we only have one chance to get it all perfect.

MR. HEEKIN: Sure.

DR. JOHNSTON: We'll never get it made -- you know, make it perfect.

But so I would like to initiate this because it provides a -- a guideline for us to work from to proceed on with Ms. Thorne's recommendation -- petition.

MR. HEEKIN: I misspoke by saying the good faith that was permeating the room. I would say the excitement and the -- and the teamwork. I wasn't questioning anybody's motivations, I'm sorry.

MR. LINDSEY: And I understand that. I hope you understand. You know, we're going -- you remember -- keep in mind, any time that we make any tweaks, we have to start all over again, as -- as our attorney said. And the fact of the matter is we are more -- petitioners have already given us some language that we can start to use or something similar to it.

MR. HEEKIN: Sure.

MR. LINDSEY: Anyway, I'm -- I'm simply saying that in all likelihood, we're going to be looking to try to incorporate language like that into any other rule anyway. So I -- I'm just not

sure where we go -- where we're getting to if we go ahead and move forward today versus we have -- we have your proposal. I mean -- and this is something that -- that -- or something like it that -- that we probably will need to put into any particular rule. But since we're going to have to be revising the other thing any -- the other issue anyway and be coming back and working in June or July on that, I just was -- was trying to cut things short.

MR. HEEKIN: Sure.

DR. JOHNSTON: I see.

MR. FERVIER: All right. So the question is will we take this language and just add to it to include what we think the documents ought to be that they're able to have access to? So it's just -- and it's -- instead of the paragraph being like this (indicating), it's (indicating), you know.

DR. JOHNSTON: Correct. But if -- but if -- if this is initiated now, then if the other one -- if the other one may get bogged -- may be bogged down with questions or wording that -- that goes on for several months, this is rather short and sweet and to the point. And I -- I

think I wouldn't hesitate to proceed on with this and -- and then we can accommodate as the other petition comes on board again because that will have to start from -- from the beginning. This could be in the process already.

MR. FERVIER: And I do have a question. This is identified as (c) dot (2).

MR. HEEKIN: Of the -- of -- then the definitions of the -- I believe the second rule in the SEB -- or rule set is definitions and this would be (c) dot (2). It's a funny -- the -- the -- if you -- if you look at the rule, you'll see why I did (c) dot (2). I don't have it pulled up right away, but it was -- I think there's already a C or -- or -- here, let me pull it up.

MR. FERVIER: I -- I have 183-1-12-.02 and there's a (c) referencing ballot style. Am I looking at the wrong --

MR. HEEKIN: Let me -- let me see here. Let me see what I'm -- what led me to believe. Okay, definitions. See ballot style. Certified.

Oh, they're in alphabetical order and certify would be after (b) for ballot style and before (e) for electronic. That's what I was --

that's why I did it.

DR. JOHNSTON: 2(c), ballot style. Oh, it'd just be a new paragraph, Mr. Heekin? (c) dot 2?

MR. HEEKIN: What -- yeah. I mean -- I'm sorry? What's the right answer?

DR. JOHNSTON: Somewhere between (c) and (d).

MR. FERVIER: I was a math major --

(Cross-talking)

DR. JOHNSTON: (c) and (indiscernible).

MR. FERVIER: -- but the last time I went to school, there wasn't a -- there wasn't a letter there. So ...

MR. HEEKIN: Okay. My mouthpiece just said -- no, I'm sorry, he's not my mouthpiece, but we could just make it -- renumber the -- the definition things and rather than glom it up with (c) dot (2) --

DR. JOHNSTON: Renumber?

MR. HEEKIN: Yeah.

DR. JOHNSTON: All right.

Mr. Chair, I move that we initiate rulemaking procedure for this petition and initiate renumbering at the same time for rule 183-1-12-.02, definitions.

MR. FERVIER: And so you're renumbering them (d) through (o)?

DR. JOHNSTON: (d) through -- (d) through (o). Relettering (d) through (o). You just renumber.

MR. LINDSEY: I'm sorry, I (indiscernible). There's a proposal by GAVREO wanting some additional language. I'm sorry.

DR. JOHNSTON: Motion's on the floor.

MR. LINDSEY: I know.

MR. JEFFRIES: I second it.

MR. FERVIER: Yeah, well, the question is --

MR. LINDSEY: And let me ask the person -- Dr. Johnston, who made the motion, would you be willing to add the following additional language -- this is language that's proposed by GAVREO --

MR. FERVIER: You -- you can't.

UNIDENTIFIED SPEAKER: No.

MR. LINDSEY: Yeah. That's a friendly amendment.

MR. FERVIER: I though we had to either pass or deny this one. We can't make alterations to it.

MR. COAN: Pass it and work on it? Isn't

that right?

MR. FERVIER: But we've already initiated rulemaking with the new language (indiscernible).

MR. LINDSEY: Yeah.

MR. FERVIER: All right.

MR. LINDSEY: Dr. Johnston, this was suggested by GAVREO, to add -- and I would like your inquiry as to this as well because the concern is that that request be made timely and that it is the duty of the official making such inquiry to ensure -- to ensure having a sufficient time to complete the inquiry prior to the scheduled certification meeting.

MR. HEEKIN: I don't think that -- I wouldn't see where the definition of certify the results -- that doesn't say that they -- there's no time -- it doesn't compress the time for them to -- to -- I would be concerned because this is just a clean definition. It's not putting timelines in there or anything, but ...

MR. LINDSEY: It's just -- it's just making sure that -- that within the definition there isn't a built-in ability of someone to basically delay -- to unfairly delay certification. That's -- that's the concern.

MR. HEEKIN: May I suggest to you that that may be -- where that issue will arise would be more Ms. Thorne's rule than -- than my rule? Exactly what do you have the right to ask for? We're just setting --

DR. JOHNSTON: I agree. I -- I think I'd keep this with definition. Keep it -- keep it simple and use -- use that suggestion with Ms. Thorne's petition.

MR. HEEKIN: And if I could, I mean, I would suggest that if we just had a definition as you're -- you're providing true north -- what are we heading toward? -- by the definition. But ...

MR. LINDSEY: Yeah. I -- I just think that -- that because you have the term "reasonable inquiry," that it ought to be -- ought to be a duty. Since you have the term "reasonable inquiry" in there, that you ought to -- there ought to be a duty on -- on the part of someone such as yourself to -- to ensure that that's done in a timely manner so that it does not unduly delay certification.

I think that since you've got that term in there, that -- that this additional language needs to be in there.

MR. HEEKIN: My reply to that would be reasonable. We all know the timeline. It's -- it's -- you close the polls on Tuesday, you vote Monday -- or Monday at 5 p.m. So what's reasonable would be -- would be what's reasonable in the time frame. And -- and we need to be reasonable on this or else we're not -- we aren't going to get anything and I want to vote yes on certification.

MR. LINDSEY: And I appreciate that. And I want you to vote yes. You -- you are on the board of my county and I want my county to -- to do right too. Anyway, I -- I think this language is important and I would simply ask that it be -- be included.

MR. FERVIER: Would you read the language again.

MR. LINDSEY: The language would be at the end of that -- of the sentence: It is the duty of the official making such inquiry to ensure having sufficient time to complete the inquiry prior to the scheduled certification meeting.

UNIDENTIFIED SPEAKER: That's not a definition.

MR. HEEKIN: That's not a definition.

MR. LINDSEY: But it fits within reasonable, the term "reasonable inquiry."

DR. JOHNSTON: I just don't think it fits within the definition category.

MR. LINDSEY: I think it fits within -- given the fact that you will have the term "reasonable inquiry" in here. That's why I think it's important.

MR. HEEKIN: Again my reaction would be that your -- the -- the task at hand with Ms. Thorne's rule is to come up with something that you can get between Tuesday evening and the following Monday afternoon. And so that's -- that's, you know, what -- what's reasonable is what's reasonable relative to the time. I think it -- it doesn't sound like a definition to me, but --

MR. LINDSEY: Well, you know, quite frankly, that's why I kind of wanted to delay and do this all together than -- rather than piecemeal.

MR. HEEKIN: I don't have a vote.

MR. LINDSEY: I do appreciate that, though.

DR. JOHNSTON: My motion stands.

MR. FERVIER: We have a motion and a second. Would you repeat your motion, please.

DR. JOHNSTON: I -- I move to initiate

rulemaking procedure -- beg your pardon? I initiate -- I move to initiate rulemaking procedures of the petition as amend -- as written for 183-1-12-.02 with the renumbering of the rule as required.

MR. FERVIER: And we have a second by member Jeffries on the phone. Any discussion?

MR. LINDSEY: Well, I guess the only discussion -- I'm going to vote no, but I want you to understand why I'm voting no because I think --

MR. HEEKIN: Sure. I understand.

MR. LINDSEY: -- that this ought to be encapsulated into the larger issue that we'll be taking in -- in July. I want you to have what you need to have, you know, to certify, and I want you to be able to -- to -- and I want the definition of certify to be within that, but I also want certain duties placed on you to make sure that you don't delay so you get things done. And I think that all should be encapsulated.

MR. HEEKIN: That hasn't been the problem so far.

MR. LINDSEY: No, no. No, no. I -- I'm not saying it has. But -- but once we put this in --

in place --

MR. HEEKIN: Yeah.

MR. LINDSEY: -- I don't want it to be the problem -- problem in the future. I'm -- I still live by the doctrine of be careful -- this is what I was told when I first got elected, be careful what you pass because most of the problems today are the result of yesterday's solutions.

So I want this solution not to create additional problems.

MR. HEEKIN: That's where ...

MR. LINDSEY: Yeah, I know. And I voted for a few of these things.

MR. FERVIER: More work for the board. We have a --

MR. LINDSEY: Anyway, I just want you -- to let you know why.

MR. HEEKIN: I understand.

MR. FERVIER: We have a motion and a second. We have finished discussion. All those in favor of passing the motion as identified by member Johnston signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: All those opposed?

MR. LINDSEY: No.

MR. FERVIER: The motion carries by a vote of two to one.

We have -- that is the end of the official agenda, but we have one more item to add to the agenda. The chair has been notified that member Jeffries would like to make a statement.

Member Jeffries, you have the floor.

MR. JEFFRIES: All right. Thank you, Mr. Chairman, board members. I want to apologize for being late yesterday, but I was fulfilling my duties as president of Georgia Rural Water at our annual conference.

But I would have -- make a reconsideration motion if that is possible.

MR. FERVIER: You may make your motion.

MR. JEFFRIES: Okay. Review of case 202 -- 2023-025 suggests there is sufficient evidence that multiple violations have been made. I move that we reconsider a motion concerning case 2023-025. I move that we refer this case to the Attorney General to investigate and review the failure to provide or retain a hundred and seventy-three required documents associated with the ten named advance voting scanners from the

November 3, 2020, general election.

MR. FERVIER: Member Jeffries, the chair is ruling your motion to be out of order since it was not properly initiated and noticed and placed on the agenda. The chair will inquire with legal counsel as to whether this motion can be heard at a future meeting, given that the board has previously ruled on this matter.

MR. JEFFRIES: Okay, thank you.

MR. FERVIER: Thank you. Were there any other items coming before the board today?

DR. JOHNSTON: Mr. Chair, I have a motion.

MR. FERVIER: Yes.

DR. JOHNSTON: I move to review the case 2023-025. It suggests there's sufficient evidence that multiple violations occurred when Fulton County failed to retain ballot images for 17,852 counted votes from the November 3, 2020, election recount.

I move that the State Election Board initiate an independent investigation of the authenticity of votes associated with 17,852 missing ballot images from the November 3, 2020, election recount.

MR. FERVIER: Thank you for that motion.

The chair rules that motion out of order since it was not properly noticed and placed on the agenda.

The chair will inquire with legal counsel and -- as to whether this motion can be heard at a future board hearing.

DR. JOHNSTON: Thank you, Mr. Chairman.

MR. FERVIER: Are there any other items to come before the board today? Do we have a motion to adjourn?

MR. LINDSEY: Move to adjourn.

MR. FERVIER: We have a motion to adjourn. Do we have a second?

DR. JOHNSTON: Second.

MR. FERVIER: We have a motion and a second. All those in favor of adjourning signify by saying aye.

THE BOARD MEMBERS: Aye.

MR. FERVIER: Any opposition? Hearing no opposition, so moved. This meeting is adjourned. Thank you.

(Adjourned at 4:45 p.m.)

CERTIFICATE

STATE OF GEORGIA

I hereby certify that the foregoing meeting was taken down and was reduced to typewriting under my direction; that the foregoing transcript is a true and correct record given to the best of my ability.

The above certification is expressly withdrawn upon the disassembly or photocopying of the foregoing transcript, unless said disassembly or photocopying is done under the auspices of the undersigned and electronic signature is attached thereon.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties; nor am I financially interested in the action.

This, the 12th day of June, 2024.

Mary K McMahan

Mary K McMahan, CCR
Certified Court Reporter
Certificate Number 2757