

**Chairperson Handel:** All right. We will go ahead and call our meeting to order. We do have a forum Jeff Boudreaux and myself Karen Handle. I am expecting David Worley here momentarily. He had a conflict. We will start the invocation and the pledge of allegiance.

(whereupon the invocation was given).

**Chairperson Handel:** Let the record show we have Mr. Worley. He's joined us.

(whereupon the pledge of allegiance was recited).

**Chairperson Handel:** I want to also say it is a personal privilege to say congratulations to the (Susan: unclear) 25 years of marriage. We will have to get you out early, so you can celebrate. One thing that I would like to do before we get started with public comments is -- oh, you did rearrange it. Never mind. Forget I brought that up. All right we do have public comment. I've got four individuals who want to speak on public comment. We have Garland Favorito, followed by Gloria Tatum, then John Fortune, then Susan Conley\*, if you guys want to come forward. Do you yield? Okay so that means 4 minutes Mr. Favorito. Ready? You can leave it that way.

**Mr. Garland Favorito:** Okay. Thank you madam chairman, Board, for letting me address you once again. My name is Garland Favorito. I live at 220 Marks Trail, in Roswell. During the last meeting I think most of y'all know that the claim fee is, came in before the electronic writing systems were implemented, that they are subject to a potential errors. I mentioned to you in a recent court case we did before the Georgia Supreme Court that (unclear) potentially admitted that when he said that the machine itself was reporting inaccurately. He also explained that to continue present service, which is another area I wanted to point out to the Board that the 2002 federal standards changes were underwent and certified and they must present that. I will give a couple of quotes (unclear: read quotes) so just to explain what we were led to believe that the stance on testing can apprise. I have submitted over a dozen state commission and reports to Mr. Tatum and to his legal affairs counsel that show that that may not be, but perhaps I think you would be most interested in the conclusions from the Election Assistance Commission, the actual community says that the national institute of (unclear) testing subcommittee do not know how requirements to put the software and D. R E. is correct. And that is concurrent with that. So with everything I think I wanted to clarify the Board you has heard the lack of (unclear) we talked about that. All so-called trails from which the machines are produced internally from the machines after the vote can be corrupted and therefore they are not being sent from the machine from the machine as the law requires at the time. So again I would simply urge you to will let's correct this problem before the 2010 election and we are in a an area where we have many Secretaries running for Governor and you have the decision (unclear) elections held in the State that creates a conflict of interest in some capacity in and every other state of the union. Again that is of national importance and if successful the election could affect us forever. So I would urge you to take the appropriate action that you need to take in order to get this resolved prior to the 2010 election.

**Chairperson Handel:** All right. Anything from Gloria Tatum?

**Ms. Gloria Tatum:** Good morning.

**Chairperson Handel:** Morning.

**Ms. Gloria Tatum:** Thank you for this opportunity to speak my name is Gloria Tatum of the Georgia Peace And Justice Coalition I like the way the gentleman opened the meeting, asking God to the give us wisdom to do what's right for the people of Georgia. With that in mind I would like to say we have no confidence in a voting system in which there is no way to (unclear) verify votes. Georgia is the only state in the nation with a statewide electronic voting system. We cannot verify fully that it's going to count because of the way we push the button. Many states have stopped using diebold equipment because of the errors caused and the responsibility (unclear). I understand that there is fraud, but there is that possibility and so it doesn't give this confidence that people are being elected that we actually vote for, although they may be, but it doesn't give us confidence. And with Ms. Handle running for Governor it's like they send a bill over again with Kathy Cox. When you oversee an election system which can't be verified, there is a conflict of interest. And we can't be sure that the people we are voting are actually winning. They may be, but we can't be totally confident because if there is an error in the system or flaw, that it is just going to spit back the same results again so I'm asking you to correct this before the 2010 election.

**Chairperson Handel:** Next speaker is Susan Somach.

**Susan Somach:** I'm with the Coalition For The People's Agenda and many other groups. And I want to thank you for the opportunity to speak here today. There are two issues that are a set of questions I want to throw to the elections board and hopefully to the Secretary of State's Office. First I'd like to discuss my deep disappointment in both the Secretary of State's Office as well as the Governor for signing what I believe to be an unconstitutional proof of citizenship bill. I know that a Arizona has some experience with this but I don't believe that in our state where we have enough non-voting people, non-unregistered people that we should be putting any extra burden there. And I really throw to this group the question of how will this be implemented in the unlikely event that the department of justice precludes it. How will it be implemented in terms of not having extra time, money burdens, and potential risks to causing debting theft that (unclear) registration form such as OLA (unclear). The second quick point I will just Mike, which I guess is a theme here is just my concern and question about perhaps when the Secretary of State might choose to recuse herself in election duties to make sure that there is no appearance of impropriety or unfair advantage given to her and her candidacy, not to recuse herself from all duties necessarily, but that would be her choice, but I just would suggest that we as a state should try and make sure we have fair elections and also that these do not actually get implemented at all in a way that would cause (unclear) voting rights with the citizen of Georgia. Thank you.

**Chairperson Handel:** Mr. Quarterman, we will have time for during the day for Douglas County for you to speak or do you have a case today before us or do you want --

**Mr. James Quarterman:** Yes.

**Chairperson Handel:** Okay then, come on up. James Quarterman. I'm sorry I thought you

were from the elections division.

**Mr. James Quarterman:** Good morning ladies and gentlemen of the Board my name is James Quarterman. I'm a candidate for the county commission chairperson in Douglas County. And I'm here today to discuss my outrage, why I've got to spend \$20,000 of my own personal money to get the Board of Elections to do its job. The Board of Elections certified elections from Douglas County when Douglas County has a five member board. On one significant from a five-member board, and that's the only signature the chairperson requires all board members or consensus of the board to sign. People here have been sworn and talking about the voting machines are inaccurate. His is your GEM server report, 55,410 people voted. The GEM server only counted 30,000 votes. 25,000 people vote for disenfranchised in Douglas County. We don't know where those votes went, who they gave them to or whatever. Had this is from your GEM server. We had had a recount on February -- November 14th. The votes from the recount changed the results from every candidate in every race. Those results were never certified. I have a letter here from Douglas County that went to the Secretary of State Ann Hicks. I will read it real quick. It has come to our attention that you do not have the correct version of all certified results or mere inadvertently left off some of the card cash numbers of the unit that had to be manually entered. I don't need to be spend ping \$20,000 of my money to get the State, which we pay taxes to do their job. Now you certified an election on one signature. You have a GEM server that state spent a hundred million dollars on a voting system that only counted 30,000 votes, 25,000 votes out of 55 thousand were given to whomever. Something needs to be done. This was 6 months ago. I addressed that Bobbie Conway has investigated. I have talked to Mr. Redding, Ms. LaGrua, you guys are aware because it was (unclear) contest and you got a copy of to contest petition and nobody has addressed 25,000 people's votes, not one person has picked up the phone and said hey, James we even appreciate you filing a complaint. This is flat out wrong. They can talk about the machines not counting the machines, but I can prove to you your GEM server only counted 30,000 votes. It's on your paper right here and it says 55,000 people voted.

Chairperson Handel: Thank you. All righty. Now we will vote to approve minutes. The minutes are typed in behind tab No. 1. Any changes or anything to the minutes. All right do I have a motion.

**SPEAKER:** So moved.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and second. All in favor?

(Whereupon there was a chorus of ayes)

**Chairperson Handel:** Any opposed?

(no response).

**Chairperson Handel:** All right. I want to also introduce Ann Brumbaugh, who is joining us

from the Attorney General's Office. She is going to be coming on full time to support the elections board, starting in August; is that right, Ann?

**Ms. Ann Brumbaugh:** Yes.

**Chairperson Handel:** Thank you. Welcome and look forward to working with you. All right. First case is case No. 2007, No. 36 City of Douglas. Before we get started the laying in process, what we will do is after the investigator's division has presented the results of their investigations, then individuals who want to speak from the jurisdiction, either the complainant or the respondent, if y'all can just go ahead and come forward so I know who wants to speak on a particular case, that would be great. Chris.

**Mr. Chris Harvey:** Good morning. Chris Harvey, Deputy Inspector General, reporting on the City of Douglas. It was a municipal election that was held on November 6th of 2007. It was run by the Coffee County Board of Elections. We've received a complaint from Tamala Paulk with several allegations. First was that voters were turned away at the polls. We were able to identify at least three voters who were turned away and not allowed to vote provisionally. According to Carlos Bailey, one person, although they had requested not to be validated and returned, they were not allowed to cancel their absentee ballot and vote and were not allowed to vote at all. We also found Riccardo Curtis who had gone to two precincts attempting to vote and he was not provided an opportunity to vote provisionally when he expressed his belief that he was properly registered. And in those case Dorian Paulk was a manager at City Hall Precinct with Carlos and Corey Bailey. And LaWanda Strozier was the manager at the Roundtree precinct where Riccardo Curtis was turned away. The second allegation regarded a large number of absentee ballots that appeared to be rejected or not counted. The original allegation is that over a hundred absentee ballots were denied and not counted or returned a day before the election. That was found not to be accurate; however, we did find that there were numerous problems with the way the absentee ballots were done. One of the biggest problems was that there were no notices mailed to anybody when their application, when their ballot was rejected upon receipt by the Board of Registrations and Elections. There were nine absentee ballot applications that were rejected and nobody was notified and there were, I believe, 32 total absentee ballot that's were rejected, and none of those folks were notified in writing as is required by the statute. The other problem we had was that when we asked; we provided a list of people who complained about mailing in their absentee votes well in time in order to be counted. We submit that list to the Coffee County Board of Elections and they responded. And that's what I was just reading to you that says the Election County office replied to the affidavits. And what they provided was their version of what happened to those ballots. And the other spread sheet you have is one that I produced. It says absentee ballot results. What we found is that in several cases ballots were returned to the elections offices. They weren't marked as being received. Sub system wasn't updated. Voters names didn't appear on any ledger's list and it was unknown whether or not their vote was counted as an absentee vote. We found 18 where people submitted affidavits saying that they had returned their absentee ballot well in advance and they claimed it was not received by the elections. Now, we don't know what happened to those the ballots, but they didn't show up. They didn't show up as being accepted or rejected. We had had about 5 folks who were in the condition where I said before where they delivered their ballots, either by hand or by mail. They were received by the elections offices; however, they were not marked and they were not tallied. As a matter of fact -- I don't want to say they weren't tallied. They weren't indicated as

being received. And the sub system was not updated and showing that they had voted until earlier this year when they were presented to the elections board.

**Chairperson Handel:** When you say earlier this year, you mean that for an election that occurred in –

**Mr. Chris Harvey:** '07.

**Chairperson Handel:** And then it was done again?

**Mr. Chris Harvey:** Yes, after we contacted them.

**Chairperson Handel:** Thank you.

**Mr. Chris Harvey:** This is after we contacted them.

**Chairperson Handel:** I understand.

**Mr. Chris Harvey:** So those are the -- that's the summary of the violations. And again to summarize. They were notified of the absentee ballot application being rejected. Electors weren't notified that their absentee ballots were rejected. They failed to update the State sub system. They failed to cancel the absentee ballots of Corey and Carlos Bailey. And they improperly failed to validate the absentee ballot envelope so that at least seven people would be identified. The reason this case is so old is that after repeated attempts to go down there we kept getting different results. So we had to when we got this first result from the county act what happened, we did some independent checking and found out that, well, they are saying that an absentee ballot wasn't returned and we actually turned up the absentee ballot, so we had to request all the absentee ballots, go through them by hand.

**Chairperson Handel:** It turned out in the course of your investigation it was found in their offices.

**Mr. Chris Harvey:** Yes, ma'am. It was found in their offices. So it is recommended that this case be bound over to the attorney general's office for sanctions.

**Mr. Anthony Roehl:** I'm an attorney in the State of Georgia, licensed, and I'm also a licensed attorney in Coffee County. I have with me Chairman Mr. C.T. Pete, who is chairman of the elections board in Coffee County. The reason we are here is the elections board of coffee county has sparked an initiative to contact legislation by way of history as how the County Board of Elections became the judicial managers of the (unclear) of this election, which is at issue. I will speak. The report's been made available to everyone. There also is attachments and information that we have now been presented. And we even had a chance to the look at some of the findings. What I would like to do. As I prepared, first of all a written response that I would like to read with the board for its review. What we have done, Mr. Pete and I, in the face of the investigative report, is to -- we first of all came behind the report, and we took the approach that -- we assumed that everything in the that report is ADT. And we took an audit view of our

responsibility as a lawyer to determine whether there was validity to any of the allegation and any of the findings of the investigator. And to straight forward and candidly admit or address those problems if they did so exist. And on those issues that either they were unsubstantiated factually or we have different interpretations of what the legal requirements are, as a board we also raised those issues in a written response that I will provide. By way of background the -- just a minute.

**Chairperson Handel:** We need 4, 5, 6.

**Mr. Anthony Roehl:** This is an original that was prepared as part of the minutes.

**Chairperson Handel:** Let the record show that I am handed a written response from a Coffee County Attorney. I probably need a motion to accept this into the minutes.

**Chairperson Handel:** These were part of the investigative report. So we can include those.

**SPEAKER:** I'll make a motion.

**SPEAKER:** I'll second.

**Chairperson Handel:** Okay we have a motion to second. All in favor.

(Whereupon, there was a chorus of ayes.) .

**Chairperson Handel:** Any opposed?  
(no response).

**Chairperson Handel:** Okay.

**Mr. Anthony Roehl:** To follow the history and I don't want to over extend my time limit. If I move too slowly please redirect me. But by way of history.

**Chairperson Handel:** 10 minutes.

**Mr. Anthony Roehl:** I will be done in 10 minutes. The Board that oversaw this particular election has been has been since the creation of that Board, which I think was four years ago, since its conception has had as its mission the goal to show openness and transparency at every county meeting. They try to pull a staff of volunteers that they educate and train to do with better to better compliance without waiving laws. And they have done a very good job. And I commend them. Had they are honorable people. And there, Mr. Pete is here as the representative for that Board. Would you like to ask any questions?

**Mr. C.T. Pete:** No.

**Mr. Anthony Roehl:** With that in mind (unclear) the board and him we took the time to do this. In our report, we went through and identified allegation by allegation. We tried to verify the

facts that were available to us and we also tried to identify if there was a violation, and we so stated. That's in the report we provided. We will do a summary of that in a minute. And we also looked at a remedial proposal that we think that we would need irrespective if this was bound over to the AG's office and include here the steps that we found taking unchanged unless otherwise directed which are to redone our training efforts, we've done thing already, but the short comings that have been identified in the investigation makes it clear that additional work needs to be done. And it is at the training level that we can cure this and we have to cure this. That is generally speaking the remedial steps we need the to take is the specifics of how we are going to manage that from our outline and if it's necessary. And we have are already talked to the county government about having provisions made to do a full-scale audit of the overall management of our office and to make determination beyond just the allegations in the investigative report, but also broadly I would like to make sure that the overall management and delivery of the services in to the voters and to the people in our community that they can be assured that our office is running as softly and as smoothly as anyone in the State. We want to be a model for others to look at, not to be criticized. So with that backdrop, I will, specifically, address some of the issues. If you look at your report we took down additions and somehow note that as far as I can tell the investigative report is accurate. They were turned away from the polls were not allowed to vote. Should have been allowed to vote provisionally. There was a clear violation and there is nothing that can be said short of that. That's just what happened. It's regrettable but that is the fact. I have talked to coworkers. Nobody has an independent recollection of the information. The conclusions that I draw are based solely on the review of the records and documents that are available afterwards and I can draw no other conclusion other than that they were not given an opportunity to vote and they should have been given, given the circumstances that appear. I have not spoken directly to the Baileys and I do reserve the right if information that was available to the investigators that wasn't available to us or otherwise is bound over to change that opinion, but based on the information that we have now, I think that is in fact what happened. I have talked to the poll manager at this particular poll, Ms. Paulk, who apparently was, as best I can tell, misunderstanding there. In the system it appeared that they had voted absentee. My understanding is when you see that designation in the system, that means that they sent an absentee ballot but it is not necessarily approved it has been received of course. And that is the misunderstanding that led to this decision. They understood however had they returned their ballot, they could condition sell the ballot at the poll. And we want to say how this presented itself back. It was just not addressed apparently. The next allegation, in terms of the specifications were Carter Curtis. In our estimation, Mr. Curtis has not been registered to that county elections. He never registered to vote in the City. He was not properly registered to vote. From what I talked to the coworker and comanager who was involved in the decision not to allow Mr. Curtis to vote provisionally and it appears that he was aware he had not changed his address. Thank you under the rules, as I read it, that this is a violation that he couldn't have voted. If he had voted the vote would have been canceled. So I take issue on that particular charge.

**Chairperson Handel:** Do you understand that when a voter comes to a voting place that they are legally required to offer them an a provisional ballot, regardless.

**Mr. Anthony Roehl:** I understand that that is not the view as I read the law. Now, I will be happy to be schooled on that, but as you will see, in my response --

**Chairperson Handel:** Turning voting voters away is not acceptable in any stance.

**Mr. Anthony Roehl:** If you will look at my reading of the response, that's what I said. That's exactly what I said. There is a difference between a legal violation and I don't try to mix words, but the (unclear) will be in the manner in which you described. Attorneys Smith, we had an issue, but I think that that matter was handled appropriately. I will move on to the other issues. The allegations are that they were not properly kept. A rejection law and tort (unclear) and applications is accurate. Was not properly maintains. That will be addressed. That should have been done and it was not. The allegations that the notices were not sent out with respect to rejection applications and/is ballots. The verbal response that I got from both board members who assisted in the election and the supervisor, was that they had sent notices out. They certainly did not maintain the record of those notices as provided by law. And they are required to maintain a written notice that and he did not so certainly there can be no written evidence or proof other than what they would say or testify to. Lastly, as to some of the voters who had claims that were discussed, there was some specific (unclear) not signed properly, incidents of that, verified as accurate. (unclear). That will be addressed. I need to review the steps entirely. As to whether or not some of those folks in fact voted we were able to determine that they all did vote. The selection of people that appear in the investigative reports they were the two individuals who were in fault (unclear).

**Chairperson Handel:** So you are saying that the State that brought these that were on a rejected absentee ballot list and you are saying that even though they were rejected and didn't get the notice of rejection you are maintaining that they did vote?

**Mr. Anthony Roehl:** No, ma'am. I don't have -- that spread sheet was given to me this morning. So, I have limited ability. So, I responded to it in part. And I will be glad to provide a subsequent response if necessary. If necessary. We appreciate the indulgence in your time. We hope that the information we provided in the original response was helpful in making the determination necessary. Be glad to entertain any questions.

**SPEAKER:** Mr. Ritter, do we have any guidance from the (unclear) program on this matter before we consider it further.

**Mr. Ritter:** I'm not sure which plaintiff questions you are asking, I agree with the Chair, but the provision should have been handed out this morning. (inaudible)

**SPEAKER:** Therefore your advice would be that we bind this over.

Mr. Chris Harvey: Correct. And we can through and appropriate the (unclear).

Chairperson Handel: One question I want to make sure that I understand that when we got this report, in the course we had the original complaint that had some individual's named in the complaint. But during the course of the investigation additional names came to light is that the correct.

**Mr. Chris Harvey:** Not exactly. We originally had 56 names and we were able to dwindle some of those down, not -- they ended up going in person or something like that. We also didn't

find anybody who got any written response from their use. None of these folks said they got anything in writing from the elections office.

Chairperson Handel: Okay.

**SPEAKER:** Mr. Roehl, by the way, I very, very much admire your candor and your presentation. (clear) giving facts and I will leave out some clichés we learned in law school about stuff like that, but I will tell you that Tifton is one of my favorite places in Georgia. Our Chair the Secretary of State flailing the fields to let people know about the absentee ballot and the early voting and the absentee voting and how emined it would be. I think your estimate was almost 30 percent. So when I read written response to Ms. Evans nor the Board expected such an unusual and unprecedented amount of absentee ballots, you can understand my disappointment, knowing how hard not only this Board worked, but our Chair and the ambassador, they worked very hard to get this done. It's disappointing to see this.

Mr. Anthony Roehl: The only response is that that is, what's stated is, in fact, proof irrespective of the (unclear) made.

**Chairperson Handel:** Please use the microphone.

**Mr. Anthony Roehl:** Part of the challenges that -- No. 1. The city election historically, the use of absentee ballots when it be in (unclear) percent basis even today no other use we have those numbers were extraordinary. That's no excuse. It's just a fact. But I thought in terms of -- I don't believe in excuses. I think there is little value in that. I think in terms of clarity, good, bad, or indifferent, I thought it made -- it provided for us recognition of the work that we needed to be done and it was a very candid statement. And our approach to this hearing. And what we are going to do in the future is we have never been here. If somebody can point this out and say there is things you can do better and you should do better, that is what we want to do. And you can't be better if you don't recognize and identify where you have shortcomings. And so that was the manner in which we chose to approach this and we think it's the appropriate manner. This is not adversarial. This is about delivery of the most important service that we can have. And we recognize that. It's the cornerstone of what we do. If we don't do it right, then shame on us, we need to do better.

**SPEAKER:** You indicated you don't need any more time, right? I guess I would like for you to say that again. Do you need any additional time to respond to what you have heard today in regards to the law department or to supplement your written response in any way?

Mr. Anthony Roehl: I would like to look a at the spread sheets that we have been provided in and the manner which I will do that is the way we have done this is. Our spreadsheet provides additional proofs to show additional fault, we will take that on. If they provide guidance from the inside as to things we are doing well which we think we should apply after this point I would like to do that as well. I would like to have some period of time to respond. One way or the other we think it stands it is. We will stand on what's presented. We think over a period of time we will get it done.

**Chairperson Handel:** That's fine with me as well. And that can be submitted over. Any other questions? Do we are have a recommendation to send this over to the AG's office? Is there a motion.

**SPEAKER:** I make a motion that (unclear).

**Chairperson Handel:** Any seconds? All in favor?

(Whereupon, there was a chorus of ayes.) .

**Chairperson Handel:** All right thank you and I do appreciate your candor if coming forward and would like to encourage you to perhaps take advantage of some of the row bust training that is available in that west Taylor's group that is here to interact with you if you so choose. Very quickly. Good morning.

**SPEAKER:** I would like to say that the Presidential election (unclear) as this one was.

**Chairperson Handel:** I would agree with that. I do. I would agree with that. Much improvement.

**Mr. Anthony Roehl:** We learned by it and we did a much better job with the Presidential election.

**Chairperson Handel:** I would agree with that. I would agree with that. Thank you, very much. I appreciate it.

**Mr. Anthony Roehl:** Shall we excuse ourselves at this time.

**Chairperson Handel:** That's fine. The next case is 2008. 28, city of Richmond County.

**SPEAKER:** Madam Chairman of the Board, this is a case that ordered that last time after supplemental investigation as to whether or not Valerie Mays properly completed her voter certificate and her address after she had moved began subsequent investigation. On her voter certificate she stated that she lived at 1102 Nicholson Street, Stewart County until then February 2008. Then she moved to Webster County. We have gotten statements from a next-door neighbor, who is also a Board member, city counsel person who states that he saw her and her children through mid-February 2008 at the residence of 1102 Nicholson Street, conducting household tasks and going in and out of the property and the Mayor stated that her letter of resignation was January 30th. It does appear that she was, in fact, and she did state that she intended to be domiciled at that address when she completed her voters certificate on February 5th 2008 in the Presidential primary. And it doesn't appear that there is a violation.

Chairperson Handel: And your recommendation then?

**Mr. Chris Harvey:** That it be closed.

**Chairperson Handel:** All right. Any questions colleagues? All right. Do I have a motion?

**SPEAKER:** Motion to close the matter.

**SPEAKER:** Second.

**Chairperson Handel:** The motion is second. Any other questions. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any oppose?

(no response)

**Chairperson Handel:** Okay. Next case is 2008 No. 29, Newton County .

**SPEAKER:** This case involves the respondent Horace Gresham. In 1988 he pled guilty to a felony charge and was sentenced to 12 years, one to serve in prison and 11 on probation. On April 2nd of -- I'm sorry on April 28th of 2008 he filed a declaration of candidacy and affidavit in which he state that he had never been convicted or sentenced in any court of competent jurisdiction, a fraudulent violation of primary election laws and malfeasance and office where felony involving moral turpitude or if so convicted that civil rights have been restored and at least 10 years have elapsed from the date of the completion of the sentence without subsequent conviction of another felony involving moral turpitude. It was determined that his sentence ending date would have been May of 2000 which would require it to be 2010 before he was eligible to apply or submit a (unclear) by date of the affidavit. The department of corrections was contacted. They indicated that there had been no clemency or no sure penance. Also the DeKalb County Probation Office was contacted. And they stated their record shows that his probation ended on May 15th of 2000, which, again, would give had him another two years before he would be eligible to file such an affidavit. He was interviewed and he admitted to filing the affidavit. He claimed that his sentence had been shortened. And he didn't have another good explanation. The evidence suggests that he is in violation of 21-2 -- 565 for making a false statement. And it has been indicated to me that he has already been indicted by Newton County for this violation by the District Attorney's office.

**Chairperson Handel:** Okay.

**Mr. Chris Harvey:** So, as far as a recommendation goes, he is already facing criminal charges.

**Chairperson Handel:** All right. Is anyone here to speak on this before we move on? So Newton County did already indict this individual.

**Mr. Chris Harvey:** Yes, ma'am.

**Chairperson Handel:** I believe the past practice of the Board was to refer this over, pending the criminal things being taken care of, then the AG's office receives something.

**SPEAKER:** (inaudible).

**Chairperson Handel:** We have a motion. And a second. Any other questions? All in favor,

please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** The next case is 2008, No. 46, Wilkinson County.

**Mr. Chris Harvey:** Wilkinson County filed two complaints. The first complaint was from a sheriff candidate, Jerry Crockett, who made numerous allegations that the sheriff was campaigning within 150 feet of the polling places on election day, that people were pulling up his signs, that the election superintendent, who reportedly displayed hand signals during the election night, thumbs up or thumbs down to the sheriff, that people that were with tallying the votes were supporters of the incoming sheriff, that poll watchers were denied the right to observe the polling precincts and that registered voters were turned away and not allowed to cast their votes. Each allegation was investigated. There is no evidence that the sheriff the incumbent sheriff campaigned within a hundred feet of a polling location. He did say that he rode in a van that was unmarked. The transported electors of various precincts, although the driver of the van was questioned and said that he didn't campaign. He didn't give anything. He didn't campaign while he was there. He didn't get out of the van. So there was no other evidence to substantiate that allegation. And that proof is unfounded. There are no witnesses who can say that anybody from the incumbent sheriff did pull up any signs or challenge the allegation that the election superintendent, Tracey Strange, had shown favoritism or had used hand signals, there were four witnesses who were interviewed who saw this process. None of them saw anything improper or out of the ordinary that Ms. Strange did. And the complainant wasn't able to provide any evidence to dispute that. There was no evidence that anything was improperly done by anybody tallying votes and that, in fact, one poll worker who normally worked there was not allowed to work due to her relationship with the candidate. There is no evidence to support that allegation and poll workers do not have the right to observe the polling precincts. The requests for poll workers were not received until the night prior to the election. All requests for all poll workers were denied in accordance with 21-2-408(A)1. Registered voters turned away and not allowed to cast their vote, the only voter that was identified by the complainant was his brother, whose registration was not received until two days after the closing of the election, registration for the election. We attempted many times by telephone and mail to communicate to Mr. (Gopin) to get his side of the story, whether or not he had appeared and whether or not he had been turned away. He didn't return any phone calls or letters. So there is no evidence that he, we don't know that he was turned away. But last was that the wife of Mr. Crockett was intimidated by the sheriff. That proved to be unsubstantiated. She heard through a third-party source that it would be wise for her to support her husband. Again, there was no evidence that anybody made those comments. The second complaint came regarding the same election, was that an elector was improperly assisted. There was an older elector, John Thomas Smith, who was working the voting machines and the two candidates had in this case were Chapman and Crockett, and he inadvertently hit Crockett when he wanted to hit Chapman. He asked the pole worker hey, how do I change this. And she told him you have to hit Crockett again to unselect it. And then you can vote for who you want. He did it. He selected and voted for the candidate he wanted to. It happened that the cousin of the candidate was waiting for him to vote and heard her say that and misinterpreted her as telling him you have to vote for this candidate. He was interviewed afterwards and said that was just a complete misunderstanding. He got to vote for who he

wanted to and he had no complaints. It doesn't appear that there are any substantiate allegations of violation of election law I recommend that this case be closed.

**Chairperson Handel:** Is there anyone here to speak on this matter? Mr. Chatter, Mr. Crockett, Ms. Barfield? Anyone here to speak on this. All right. Let the record show that there is no one.

**SPEAKER:** Mr. Harvey in this description under allegation No. 2 --

**Mr. Chris Harvey:** Yes.

**Speaker:** Says Smith said he made his first selection Chapman and was satisfied with the vote. On exiting the polling place, Smith said he was approached by Rod Chapman regarding the conversation he overheard between Elector Smith and Barfield. So does that indicate that Chapman was in the polling place.

**Mr. Chris Harvey:** That's not the candidate Chapman. That's his cousin. He was in line to vote. He witnessed this encounter. He was the original complainant on this complaint.

**SPEAKER:** Okay. Then I don't have any other questions.

**SPEAKER:** I move we close the case.

**SPEAKER:** Second.

**Chairperson Handel:** The motion is second. Any questions? All in favor please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** All right that matter is closed. Thank you. Next case is 2008, No. 56 Seminole County.

**Mr. Chris Harvey:** Madam Chairman of the Board, we received a letter yesterday from Amy Bagwell who is a probate judge in Seminole County, saying that please accept this letter of notification. We will be unable to attend the State election Board (reading fast and unclear). This case involved a complaint that the sister-in-law of a candidate who is on the ballot was allowed to work as a poll worker during the election on July 15th, 2008. Norma McCloud is the sister-in-law of the incumbent Seminole County Coroner, Terry Bachelor. Our investigation revealed that that was the case. She did work. The probate Judge, at the time, Judge (unclear) when asked about it was very indignant and said that he knew that she was a sister-in-law, but she was a good poll worker and they didn't think that there was any reason why she shouldn't be allowed to work. Ms. McCloud acknowledges that she worked and that she was his sister-in-law and that it appears that Norma McCloud and John Earnest were in violation of 21-2-\*72(A).

**Chairperson Handel:** Do we have anyone here from Seminole? I know we had the letter from Judge Bagwell. Is anyone else here?

**Mr. Chris Harvey:** I'm not sure. We also had had a letter from the complainant that it just . Essentially restating her complaint, it doesn't make any whether or not (unclear).

**Chairperson Handel:** Let the record show that we're accepting a letter from Judge Bagwell and a letter from Ms. Elijah. Do I have a motion to accept these.

**SPEAKER:** Motion.

**SPEAKER:** Second.

**Chairperson Handel:** All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** I want to make sure I'm clear. The one letter is from Judge Bagwell.

**Mr. Chris Harvey:** Yes, ma'am.

**Chairperson Handel:** But the respondent is Judge Earnest.

**Mr. Chris Harvey:** Correct. He resigned madam.

**Chairperson Handel:** He did. But Judge Earnest is the one who appointed Ms. McCloud as the poll worker.

**Mr. Chris Harvey:** Yes, ma'am.

**Chairperson Handel:** So Ms. Bagwell is not a party to this action.

**Mr. Harvey:** Correct.

**Chairperson Handel:** Thank you. Any motion folks.

**SPEAKER:** I move we bind it over.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and a second. Any other questions? All in favor, please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed?

(no response).

**Chairperson Handel:** All righty. Next case is 2008 No. 68, also Seminole county.

**Mr. Harvey:** The complainant in this case is a Mr. Timothy Duggin who complained that he went to vote and he was asked by the poll manager if he had any help with the voting machine as had he approached the machine. Mr. Duggin said that this angered him and thought that it was intimidating and thought he was being insulted by the poll manager. He is also complaining that the poll manager was walking around while the voting was going on. And they thought that compromised his privacy. Mr. Duggin was interviewed by our investigator. And essentially relay that complaint. He didn't have any specific objection other than they thought it was essentially impolite and rude for him to ask him if he knew how to use the machine. He didn't make any specific allegation that the poll manager was looking over his shoulder or trying to see his votes, specifically, and then Mr. Duggin went on to talk about other issue that's are unrelated the election or the campaign. The other poll workers were interviewed. They both said that they you saw nothing unusual that the poll manager did. The poll manager said that he always asked everybody if they needed any help with working the machine. He didn't do anything wrong. There is no evidence that we can find that there is a violation of the election law in the case and it is recommended that this case be closed.

**Chairperson Handel:** All righty have Mr. Duggin or Mr. Garcoft here? Anyone here to speak on this case? Anyone here on this case. All right let the record show that there was no response. Motion.

**SPEAKER:** Motion to close.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and second to close. Any other questions or comments?

(no response).

**Chairperson Handel:** All in favor please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed?

(no response).

**Chairperson Handel:** Our next case is No. 2008, No. 57, DeKalb County.

**Mr. Harvey:** The complainant in this case was Stan Watson who was the candidate for DeKalb County CEO in the last election. The allegation was that somebody had called and said that somebody from the Burrell Ellis campaign had told her that she could complete an absentee ballot application over the phone. They didn't have a number for Ms. Smith. Essentially Ms. Dolores Smith couldn't be identified. The person who supposedly spoke to her couldn't be identified. And the Ellis campaign responded by providing scripts of their phone bank operators. Ms. Dolores Smith was not on the list of voters that they called. There is no indication that

anybody from the Ellis campaign called a Ms. Dolores Smith and there is no evidence that there is a violation of the election code. We recommend that this case be closed also.

**Chairperson Handel:** All right is there anyone here to speak on this case? Come forward. Right over here. Give us your name and address.

**Mr. Kevin Ross:** My name is Kevin Ross. 1201 West Peachtree Street, 14th floor, Atlanta, Georgia. And just a quick response. The complaint was completely unfounded and we would encourage the recommendation that it be closed.

**Chairperson Handel:** All right. Questions colleagues?

**SPEAKER:** Make a motion to close the case.

**SPEAKER:** Second.

**Chairperson Handel:** A motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed. All right. Thank you. Next case is 2008 No. 67, Lanier County.

**SPEAKER:** Madam chair, this involved a July 15th, 2008 primary election complaint Judy . Mullis, a probate judge election superintendent, as well as numerous electors from Lanier County. The respondent and direction of the complaint is Charles Norton, the incumbent sheriff. The allegations were that Sheriff Norton was campaigning within her polling location and that voters were turned away because not allowed to vote. All of the witnesses. All nine witnesses who alleged that Sheriff Norton was campaigning inside the location were interviewed. No one heard the sheriff actually solicit any votes. He was seen greeting voters, shaking hands. He did tell one voter he collected over \$80,000 in drug money during the previous tenure. Apparently, the sheriff, according to him, he cited O.C.G.A. 15-15-10, as his duty. And in fact 15-15-10(A) indicates, which is a separate statute, obviously, from the elections code, but outlines the duties of the sheriff. That the sheriff is to attend by himself or had his deputy act the place or places of polling an election or county site on the date of election from the opening to the closing of the polls and to take under his charge all subordinate officers present as police to preserve order. I think this Board has come up with against or discussed this allegation before. I think it is a certain reading to the letter of the law of O.C.G.A. 15-15-10 we can't substantiate a violation of the elections code as I guess (unclear) is up for interpretation that since no one heard him solicit votes or identifying himself, we do not feel there was evidence to support that allegation. There were 6 people that said they were turned away. 5 of the 6 were actually allowed to vote and the 6th could not be located to ascertain whether or not he was offered a provisional ballot. So at this point my division cannot substantiate any violations. I believe the sheriff, at least when I spoke with him last week, was intending to be here had. I don't know. I thought that there might be sheriff Norton in the back. He is here this morning.

**Sheriff Norton:** Good morning.

Chairperson Handel: Good morning. Thanks for coming. Everybody who wants to speak on this case. If you could go ahead and come on up for me, that would be great.

**Sheriff Norton:** We with are a small sheriff's office and we have 4 or 5 voting precincts. We only have a couple of deputy on duty at any given time. If those deputies are out taking calls or checking on other polling places that only leaves me to check on the polling place which is next door to my sheriff's office within 10 or 15 steps. And I do frequently go outside my sheriff's office for privacy to the make cell phone calls etc. and smoke because I can't smoke in this office. But as far as ever asking anyone to vote for me. I've never done that..

**Chairperson Handel:** Okay. Thank you. I'm G.B. Mullis, I'm the elections superintendent and I filed this complaint. And we had a lot of complaints that day about the sheriff being within 150 foot. I felt like you know if everybody couldn't be within 150 foot, he shouldn't be allowed to be there too, as a candidate. And when I did approach him I called on the telephone I seen him out there and I seen him out there and I asked him to please move, go back into his office. We are have voted in this place for 30 years or better, ever since that courthouse has been there. That grand jury room's always been like the sheriff's office and we have used this as a voting location by (unclear). And I have never had any problems with this before, as far as the sheriff being on the outside of the polling place or within that 150 foot. It's probably not but 25 or 30 foot from the front door of the grand jury room from the front door from sheriff's office. But he does have access to his sheriff's office from the back. There is a back door. And my old sheriff used to use the back door from time to time to come in and out the door because I've asked him not to stand outside and he didn't, because I asked him to he did do that. And when I approached him and asked limb to do that he refused to do it. So I felt like you know it's a close election it's only 26 votes difference now my folks in Lanier county a lot of them feel like it was a tainted vote count, you know, and that makes us question our integrity. And I didn't do my job on election day. I was covering my but really when I filed the complaint that this happened on election day. All my poll workers said he did go out there. Now he had has done that before in the past. They told me that he had gone by checking on them. But we have got two outlying precincts around the county. And they kind of are buy themselves. They said that he did go in and he checked on them that he did go in that day and they said that he didn't talk to anybody. So I can't say that he did. But I think that is what they said but he did show the duties of a sheriff and one of them was the 16 or whatever code it was about as a sheriff stands in for his deputies at the polls on election day. And we feel like, you know that needs to be addressed. And you know threw the sheriff's association or somebody needs to address that particular code section (unclear) on election day. And we are looking -- we might be relocating that polling place. And also you know, there were several things that occurred that the didn't cooperate very well. I just am covering myself and my constituents at home. I'm not here to represent him or the losing candidate. I'm here as election, superintendent, trying to do my job to the best of my ability. I've been doing this for 20 years and I feel like I do a good job, you know. And that's why I'm here. I'm not here to get in any trouble. I don't know a thing about it. It was the fact that that issue needs to be addressed by the Board or something other.

**Sheriff Norton:** I am going to leave with you photographs that shows both my sheriff's office and the door as well as the vehicles of the sheriff's office in our parking lot and submit two letters from coworkers that say I do go by the polling places. And I will ask them if they need

drinks or if they need anything for lunch. My officers were from the furthest polling place away (unclear) maybe from the county seat, we were requested to follow them from the polling place back to the courthouse and we would be balanced. And we do all that stuff.

**Chairperson Handel:** Let me if I might. One of the things before and we have talked about this and what would be helpful first of all is, I mean you guys have sort of a symbiotic relationship. And so it's important for everybody to try to work together for the elections office. This is something that we can work with you and get some input from you on maybe how to clarify this for elections officials. Because I don't think anybody wants to have anybody feeling like they're in a bad spot. I don't want to you feel like you're in a bad spot about anything. If we can do a better job of clarifying things for you maybe that will help.

**Sheriff Norton:** We're in perfect understanding of everything. We really are. We have a 32 year old courthouse that the U.S. Marshal's office when they did the courthouse assessment said we need to replace because we can't secure it. (unclear).

**Chairperson Handel:** All right. Do you have something that you would like us to put into the record.

**Sheriff Norton:** Yes, ma'am I do. How would you like me to do it.

**Chairperson Handel:** If you would just give them to -- tell me what they are again so we will see what our motion's going to be.

**Sheriff Norton:** I'm sorry. There is going to be several photographs of the sheriff's office, vehicles that are outside the sheriff's office which is next door to the polling place, and there is also a couple of letters from poll workers saying that I was requested to come in once because they had an unruly voter and once I went in and calmed things down, everything was fine. I talked the to the poll worker and then went ahead and left and returned back to my office. I do my campaigning. I put my signs out or run ads in the newspaper and I have yet to ask anybody to vote for me. And they are confusing me with someone that really needs this headache.

**SPEAKER:** Sheriff, thanks for coming today sir. Appreciate that very much. I noticed that on your lapel pen you have the indicia of the fact that you're the sheriff. On that day in question, were you in uniform.

**Sheriff Norton:** I don't wear a uniform.

**SPEAKER:** You were plain clothed.

Sheriff Norton: Plain clothed khaki pants and colored shirts most of the time (unclear).

**SPEAKER:** Were you wearing any indicia of your status as the sheriff?

Sheriff Norton: I wear it all day.

**SPEAKER:** And that would have been in full view of whomever might have seen you within 150 feet of the polling location.

Sheriff Norton: Absolutely.

**SPEAKER:** Do you think you are commonly known in the county or could somebody simply not have known who you are.

**Sheriff Norton:** We're a small caught. It's estimated between 7200 and 13,000 people. My grandmother taught and was on the PTA and my father cared the first basketball team to state. We are a very well-known family.

**SPEAKER:** So you think you would be commonly known to be in any public gathering. Would you be known as the sheriff.

**Sheriff Norton:** Yes, sir.

**SPEAKER:** I have no other questions.

**Chairperson Handel:** Any other questions.

**SPEAKER:** Had the attorney general's office ever come across this issue of (unclear).

**Mr. Chris Harvey:** I was afraid you were going to ask that. Not to my knowledge. I have never looked at the statute. I would be interested to see what it has to say. It is a concern to me that the statute could be used as a means for a sheriff to come into a polling place, even if the sheriff in this case did not campaign, you question whether people feel intimidated by the sheriff being there. You are reminded of the sheriff by his presence. It is a concern to me. And I have never seen that.

**Sheriff Norton:** If I may. We have dressed this at the Georgia Sheriff's Association at numerous functions and it is more difficult reasons that we discuss it where we do not poll at polling places (unclear) outside the door of the voting precinct. (unclear) office one come in or walk in, Or inside the courthouse.

**SPEAKER:** Is there any evidence whatsoever campaigning the report seems to be clear, but with all this discussion could I just go back and hear about the sheriff as activities was 150 feet. Do you think that would suggest him (unclear) conflict with the statute. I'll remind you that you we're here to enforce the rules of the code and not 15-15.

**Attorney:** From the lawyer side of me I would say an argument could be made that talking about the accomplishments of the office to potential voters when with they go to vote would be campaigning. In my own experience elected officials talk about their accomplishments when they vote. The flip side is elected officials talk about their accomplishments while they do their job in telling people about their job. As a lawyer I could make an argument on either side of his comments about the seizure of the government during his tenure of sheriff. To campaign or not campaign. I don't know this sheriff so I don't know if he routinely stands outside the courthouse and tells folks what he's done as the sheriff. If that's an anomaly, I would say an argument would be made that that's campaigning. If every other day of the year he stands outside at the same place and smokes and talks to people coming into the building and talks about his accomplishments in the office, I would say the argument goes a little bit the other way.

**SPEAKER:** And that's supposed to be helpful to me? Never mind I withdraw that.

**SPEAKER:** But none of the witnesses said that they had been solicited for a vote.

**SPEAKER:** That's correct.

**Chairperson Handel:** Okay.

**SPEAKER:** I think the code talked about mannerisms and what is the shaking of the hand and a had hugging a baby. That's mannerism. That was my take on it. And that's why I felt like I had to as election superintendent get this cleared and brought before the bothered so it can be addressed throughout the State because I'm sure I'm not the only candidate that this has happened to. I'm just probably the only -- nobody else probably filed a complaint on it. You know if they file a complaint on me, then I would have to answer why I didn't make him move. But that's not the case.

**Chairperson Handel:** All right. The thank you. To Mr. McGiver's point, we don't really have jurisdiction over the 15-15. It's whether or not there was actual campaigning and we don't have anyone who is willing to be on the record saying that they have been solicited to vote. I don't know that there is anything here. I will say, sheriff, and maybe you aren't interested but I will let you know how I would do things as Secretary of State when I'm on the ballot. I have every authority to be inside of a precinct on any election as Secretary of State. I would not do that, however, under -- I can't even think of a circumstance write would go to a precinct where my name was on the ballot and talk the to anyone for the mere sake of perception around that. So no one wants to inhibit you from doing your job, but, I mean I would hope that there seems to be tension there. And in elections we need to depend on one another. So I would hope that you could kind of work that out between the two of you. But from this one member I don't see how there is any evidence whatsoever to suggest that you were soliciting votes. And maybe someone perceived it that way. And you know as elected officials, we all have to be mindful of perception.

**Sheriff Norton:** Ma'am, once you see the photographs you will fully understand.

**Chairperson Handel:** (unclear).

**Sheriff Norton:** It ought to be mind boggling how you can move that place (unclear).

**Chairperson Handel:** Can you send those around the photos. Thank you.

**SPEAKER:** Maybe I take more of a militaristic view of this than others, but in my judgment. Somebody has to be in command of the scene. I come down, contrary to the report of our investigators here, and that is that in this instance the election code says that Judge Mullis is in command of the scene. And she makes the call she had the subjective judgment as to whether or not the conduct that she is observing is interfering in violation code and I side with the probate Judge on this matter. And in my judgment this should be bound over. And I'm sure the law

department not only has an opinion but is likely work something out that is amicable here. But I would want it to be clear that it is, in this case, in Lanier County, it's the probate Judge but it may also be a member of their Board of elections in another county but on that site and at that moment in time, given the election process for which you are completely responsible in that county, then this is the lady that should.

**Chairperson Handel:** I'm sorry. Hold on. We will come back to you. But sometimes that doesn't help.

**SPEAKER:** Obviously, if the matter involves the public peace and things of that nature, the sheriff, obviously, is very acquainted with what his responsibilities and duties are. There is a conflict here, perhaps the (unclear) but the only thing that we're responsible for and the oath that we have taken is to enforce the election code so I'm going to encourage my members here in this particular matter to bind this one over, no offense to the sheriff, but we had a commander on the scene and she made a judgment call and I support that.

Chairperson Handel: Mr. (unclear)

**SPEAKER:** Well, I'm not sure how you want me to respond.

**Chairperson Handel:** Can I just ask him a question so we know what with we're looking at.

**SPEAKER:** Sure.

**Chairperson Handel:** Will you tell me what we're looking at, Sheriff, so I can -- is this the entrance to what?

**Sheriff Norton:** That's the entrance into the foyer. You would take a right to go into the superior courtroom. You take a left to go into the courthouse.

**Chairperson Handel:** Okay. Where is voting happening in relation to this.

**Sheriff Norton:** Right where your thumb is at.

**Chairperson Handel:** Over here.

**Sheriff Norton:** This is where you walk up to the room. Where you see the officer walking in to the next door is the Sheriff's Office.

**Chairperson Handel:** All right any other questions.

**SPEAKER:** I had a question. Well, it's not a question. It's a statement. I'm going to take a different view that Mr. McGiver on this. I don't think that Ms. Mullis is the commander on the scene. I think we're the interpreters of the law. Although I think it would have been wise of the sheriff to agree to Ms. Mullis's recommendation, the problem here is that there is no evidence of campaigning. And the other problem here, to me, is that if the sheriff is -- apparently your office, itself, is within a hundred feet of the polling place.

**Sheriff Norton:** Absolutely.

**SPEAKER:** So if the sheriff is sitting at his desk in had his office, talking to someone, he is not acting in any different way than he is if he is standing outside his office talking to someone. They are both within 150 feet. To accept Mr. McGiver's interpretation says when he is sitting in his office talking to someone, doing his job is a violation of the code. The problem here, is that his office is within 150 feet. And he has got to do his job and therefore, as long as there is no allegation from anyone that he was actually campaigning, I don't think that there is an issue.

**Chairperson Handel:** I'm conflicted on this one for that reason. Again, if I'm saying hello and shaking hands to the people going to vote or whether I'm saying vote for me or not vote for me, that's getting my name in front of them and. I think I am going to have a hard time voting to bind this over since up don't have anyone who is saying that yes, it was campaigning, but I really would suggest, on those days, you need to try to avoid doing that. I mean it's just not proper to say hello to people in line when your name is on the ballot unless there is just a legitimate reason that there is something going on in that precinct and again we, as elected officials, as you well know, we are just -- perception we have to worry with about and be cognizant of. But I don't know that I could, absent a person saying, yes, the Sheriff campaigned and asked me for a vote, I'm going to have a hard time binding it over.

**SPEAKER:** Just to close out, the code, I know I think Mr. Ritter will support me in this as a representative of the law department, the code bestows upon, in this instance, Judge Mullis to make these calls, and that's the call which she made, and the law supports that and that's the reason that I think that this should be bound over. I'm sure (unclear) by the law department. I think it's important that we send a message to the directors of our election, particularly judges in smaller counties that says we are going to support your efforts. We want you to be aggressive. We want you to enforce the code and not tolerate any (unclear) in any way. That's the reason that I will object to voting against the recommendation of our investigator. In this instance I will vote to bind over the matter to the law department.

**SPEAKER:** Brief comment. If you were to probable cause in this case we would still want to look at the law and see whether -- what the enter play was between the statute 15-15-10(A) and the other sub parts of that and the election code. If we were to look at those and find that that was not actually a violation, we would still recommend close this case after you found probable cause. On the other hand, if we think that that is a violation, I don't think that it's actually going to be a person thing from the law department is that going to people saying vote for me the be all and end all of campaigning can be more than that. In this case, it may be appropriate even so to have a minimal consent order or something like she says (unclear). We will be a able to look at it once (unclear).

**Chairperson Handel:** I know I had asked you to take a looks at whether or not this has ever come up before in our elections record. Did you find anything on that.

**SPEAKER:** Yes, ma'am, I did. And there is actually a Supreme Court decision, a 1942 Supreme Court case, Georgia Supreme Court. It's L. Bert versus Cann, 193 Georgia 320. And

there is also a 1977 attorney general opinion on this subject. It's 151. And both of them, or the attorney general's opinion references that a sheriff's powers to be at a polling place are not conditioned upon request by the superintendent. So it's a little at odds with -- in other words, the superintendent doesn't have to ask the sheriff to be there. The sheriff has that duty to make sure the polling places are safe; however, the Supreme Court decision does actually put parameters around the sheriff's, what a sheriff can do at a polling place. And the sheriff can be within the enclosed space. Peace officers can but only when necessary to preserve order. A sheriff or deputy sheriff in a polling place can't engage in conduct which would constitute elicit intimidation of other persons in relation to the electoral process, and a sheriff or deputy is prohibited from engaging in soliciting votes and distributing campaign literature and other material the same as anyone else. So that is the enter play that the Supreme Court and the attorney general have looked at. This has been the case for a long period of time.

**Chairperson Handel:** I'm going to try a motion and certainly Judge Mullis, you know how strongly I want to be supportive of a probate court judge. And one of the first things that you said was that we really need some clarity on this. So in light of what Russ has just told us and some of the case law I'm going to try a motion that says we will close this matter. However the elections director is directed to develop some clarity language around the 150 foot rule. Hopefully we can do it by rule of the SED so that we can get some clarity and to do this in conjunction with the sheriff's association, as well so we don't lead over into an impact on 15-15 and your statutory responsibility. That's my motion.

**SPEAKER:** I second that motion.

**Chairperson Handel:** Questions and comments on that? (no response).

**Chairperson Handel:** And hopefully that will get you the clarity that you need to be able to do your job and I want to thank you for having the courage to bring it forward because Mr. Time we need someone like you to push us to address an issue that really needs some clarity. I have a motion and a second. All in favor please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed?

**SPEAKER:** Nay.

**Chairperson Handel:** We have three ayes and a Nay. We welcome input from both of you as Mr. Taylor works on that. He would be amenable to that. Super. Thank you, very much.

**Chairperson Handel:** Next is 2008 No. 69 Elbert County. Yes, ma'am.

**Attorney Shawn LaGrua:** The complainant in this case is Judge Susan Sexton, the probate judge. And the respondent is Maydel Davis and Marvin Stiff, who is the deputy registrar. The allegations were that the expressed polls do not contain current information but it steel was removed from a DRE after the election, prior to certification of the election. And the registrar

did not record the seal numbers from the DRE machine before elections and the (unclear) were not mailed before September 22nd, '08. The deadline for the November of '08 election. Our findings were that in fact the expressed polls were not updated prior to use in the primary. They examined the machines and confirmed this. Those (unclear) and therefore responsible and your SED Rule 1831-12-2007 Section 8, on Friday of August 8th, Judge Sexton observed Davis and stiff erect an ER machine seal removed. 10 days had not passed since the primary. To allegation 3 and 4, there is no requirement, believe it or not, to record to seal numbers after the election. So the fact that they didn't do it, may very well be true, but it's not a violation of the code and rules and the ballots were actually mailed within two days of receipt. Therefore it is recommended that there case -- allegations 1 and 2 be forwarded to the AG's office for appropriate sanctions and fines. I should note two things for the board if I could, before I finish. One is there is a previous Elbert County pays, 2,637 presented in February of last year respondent in this that case was May Davis. There is a -- a consent order was agreed to in June of last year, which included a C and D reprimand mandatory training, heightened monitoring, special training on (unclear) and absentee ballot process. It appears that maybe the training worked because that allegation was not substantiated. The other thing I should note. I have speaking to both Bob Thomas, the County manager and Bill Daughtry, the County Attorney who is here. As of July 1st Davis and Smith will no longer be elections officials in Elbert County. And if I could let the County Attorney explain that.

**SPEAKER:** May it please the Board, Madam Chair, General LaGrua. I'm Bill Daughtry. And I'm to County Attorney for Elbert County. I'm referencing May Davis and Marvin Stiff, who is our chief registrar and deputy registrar. As General LaGrua stated, the terms of Ms. Davis and Mr. Stiff were not renewed by the Elbert County grand jury. And so as of June 30th, their terms end. However, in spite of the fact that they are not going to be back, they wish to contest these allegations that are before you today. We contend that they have not violated any rule or code or statute as alleged. Also, as was correctly mentioned, Ms. Davis has a pending case that you all heard June of last year. That case was supposed of by partial admission and consent order that Ms. Davis did admit to those allegation. She is willing to admit whenever she is wrong, but she is not willing and able to do so today, because we believe that the allegations as stated today are not true. As with the first allegation, this that the (unclear) polls did not contain current voter information for the July 15th, primary election. On July 15th, early morning of July 15th a voter at the Elbert precinct was listed electronically as having voted by advanced voting when, in fact, he hadn't. That was reported to the registrar's office. The problem was quickly diagnosed that the electronic information was incorrect, however the printed master list was correct. And so decided between the registrar's office and our election superintendent poll workers would refer to the printed information as well as the electronic information. I believe the depth of the problem was over stated in the report on the investigator. It mentioned that information on 70 voters was incorrect. However there was only one voter during the entire election that he had previously voted when he had not. And he was not turned away a minute he stuck around until the problem was diagnosed and fixed. And so everybody was allowed to vote, but at this date 70 voters necessarily, there was only one voter in the entire county that was aware that there was a problem at all and he was told that he had previously voted, when, in fact, he had not. Rule (unclear 183 -- 12-.07 subsection 8 states in terms of delivery to the precinct registrar shall ensure that all persons who have been issued or cast absentee ballots are marked accordingly on expressed poll units. We contend this was the only way to end to problem by the respondents,

but some sort of computer glitch in the system. A list of advanced as absentee voters is uploaded, submitted electronically to the State servers at the close of every advanced voting period. Then prior to election day the electronic file is down loaded or obtained electronically from state servers at a KSU, I believe. And I'm not a computer expert so I may not be using the correct terminology. I ask that you all pardon me if that's the case. At the end of the advanced voting period in question, information was correctly entered and transmitted. The information was written on the printed master list of voters; however, the expressed poll data was incorrect, even though it didn't correct for the February (unclear) reference the primary. And the data was transmitted the same way. The following election, August 5th primary run off election Mr. Stiff discovered that the electronic file containing expressed poll about absentee and advanced voters was incomplete or even empty when he was down loading the file from the KSU server. He noticed that the size of that electronic file was much smaller than the size of the file he had uploaded to the state server and he did have the foresight to call KSU and report that problem to him. And they instructed had him to down load the electronic file from another server, thereby avoiding the same problem in the August 5th election. My clients have received information that a similar problem was experienced with other counties and municipalities during the August 5th primary runoff. And rule 183-1-12.07 subsection 10 anticipates the printed master list will be utilized under certain circumstances, which is exactly the resolution the that we reached on the day in question. And of course there was not a major problem with that. We contend the problem in retrieving electronic files from the KSU computer servers might be a problem with the servers themselves. Of course, that can't be proven without a computer forensic examination of the servers, which we don't have the authority or the resources to do, but it was running into a problem by my clients. The printed master list was correct. The electronic times that were uploaded previously, there were no problems with that and the very same procedure was followed on this election. We are very concerned with public confidence and the accuracy of voter information. We believe that that is of utmost importance and we share your concern with that. However, we simply contend that this was not a problem. That problem was not caused by my clients. It is unfortunate. It was quickly resolved, early on the morning of the election, but accurate information was compiled and transmitted. And for some reason the electronic file was incorrect. We respectfully request that this allegation be dismissed and not bound over for further action. And I know I'm running out of time. I will briefly address the second allegations. It is alleged that the seal was removed from the DRE machines after the election and prior to certification of the election during that (unclear) day period. On August 8th, which is 3 days after the primary runoff election, one of your investigators, Steve McDower was doing routine certification in Elbert County. And he discussed a number of issues with her Office. One of those possibilities of a refuse DRE units on the legs that come from the manufacturer due to the configuration of the room, to see if more machines can be set up and more votes cast simultaneous justly to keep lines down in future elections. The office refused the DRE machine units on table tops as instructed by our election superintendent, and as ordered by Mr. McDower, Ms. Davis and Mr. Stiff stood one of the DRE machines up to see the if it would work well in that space, you know, considering the amount of wall space and various other factors. They had to remove the seal to record the number of the broken seal on the recap sheet and To record the seal number that was used to replace it as part of that process. Election superintendent, Susan Sexton, whose office was across the haul you saw all this pass by here and she came over to do so what was going on, and she did instruct my clients that the machines would be used on table the tops in spite of what Mr. McDower said. Of course, my clients were just following the

instruction of your investigator to set a unit up to see if it would work. And the relevant code section is O.C.G.A. 21-2-457, voting machines shall remain locked against voting for the period 10 days next following each primary and election. We contend that the machine impact was locked against voting at the time. And this was three days after the election. Memory card, supervisor card, voter access cards or ballots help been locked, stored under seal by the election superintendent; there, was not possible to cast a vote. The machine had not been plugged into a pour outlet. It had not been powered up with battery or whatever. It was essentially set up to see how many machines would fit in that space for the next election cycle. As a matter of fact, memory cards were moved on election night as required by rule 180-20-2.202. Of course, the statute states that the machine shall be locked against voting. There is no case law on the issue. The appellate court's have not addressed this issue, but I'm sure the legislature included the words against voting for a reason. And if the machine is stood up, then of course, you know if it's not plugged in, there is no pour sources -- the unit was still in the registrar's office 3 days after the election. And, of course, your rule required the election superintendent remove the units to a place of storage. Of course, that was not done for whatever reason but that's the superintendent's responsibility, who is actually the complainant in this action. And of course, my clients could not have moved this can computed source because they don't have a key to the storage facility. Storage area. And so you know that machine was still there. Your investigator was there just a few minutes before all of this transpired and he didn't find a problem with that. Most importantly my clients were simply following the instructions of your investigator. And we respectfully request that this the allegation be dismissed and not bound over, as well. In closing, I just want to say I'm an Elbert County voter myself and I often use advanced voting. And I found that many and all my family members believe there is a smooth process in the registrar's office that even though their term are coming to an end, that Ms. Davis and Mr. Stiff have done an excellent job. They are some very friendly and helpful people there. This is a rule county. And everybody knows everybody in Elbert county and Ms. Davis is very well respected in the community as a retired educator. They are both very professional and of course they will be missed after July 1st. But we just respectfully request that you not bind either of these allegations over.

**Chairperson Handel:** Is there anyone else here?

**SPEAKER:** They are here. I don't think they wish to make a statement.

**Chairperson Handel:** All right. Thank you.

**SPEAKER:** Madam chair, if I could ask a question. The printed master list, what was that print from?

**SPEAKER:** I'm not sure. Mr. Stiff could probably answer that. Mr. Stiff, come on up.

**Chairperson Handel:** If he would just quickly give his name and address before you start answering.

**Mr. Stiff:** (unclear) arden Stiff 2505 Martin Turner Road, (unclear) Georgia. The master list was printed from the Second of State website. When we upload everyone who has voted we

download back from one (unclear) the document supports it. And we also fill out a red book which is sent down from the Secretary of State's Office (unclear). We mark off when they vote also. So we have two different things that we can use.

**SPEAKER:** And the expressed belief is that you attempted to update. Could you just explain how you attempted to the update it and your feel that it wasn't .

**Mr. Stiff:** Well, when I attempts to down load the file from KSU it was too small. It was only 58 kilobytes. The first one that I had ever used they were larger than that. The first time I got one, they was too small. I didn't know that it was too small. I learned that it was too small. I attempted to use it. I called -- I can't remember, but I remember it was Michael's name. I talked to Michael. Michael was busy and he referred me to someone else. And he could not see the file so had he could not tell me whether it was the right size or not so he didn't have any way or didn't use any other method of correcting the file at that time. The file showed up if same way, a month later. It showed up too small. But I knew it was not the one for me, because it was too small. He told me that that was everything that he got from the Secretary of State's office. I said well it's too small and it's not going to work for me. So he then said I can down load it to that file directly from the Secretary of State's office to you. That was the first time that had ever been done. And it came up much bigger and it worked fine.

**SPEAKER:** Thank you.

**Chairperson Handel:** Any questions? Okay a motion.

**SPEAKER:** Make a motion to close.

**SPEAKER:** Second.

**Chairperson Handel:** A motion and a second. Any questions from anyone? (response) All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed. Okay thank you. Next case is 2008 No. 73 Jasper Kelly.

**Ms. LaGrua:** Yes, ma'am, the complainant in this case involves the August 5th, 2008 run-off. The plaintiff was Juanita Gasway. The respondents were Ken Jackson, Magistrate Court Judge, Don Kelly, Dan Jordan, David Morrison and Linda G. The allegations were that David Morrison intimidated Carl Tyler by asking her to remove to yard sign. There were a number of folks that were upset that they were contacted prior to voting by folks telling them they hadn't voted and encouraging them to vote. There was also allegation that intimidating phone calls were made to persons that hadn't voted. That a sister of a candidate participated in telling those in this clerk of superior court and magistrate court intimidated them by visiting her at her business. Ms. Tyler was interviews and said she talked to the Ms. Morrison and he asked her could he put a sign in her yard, and she declined, but she never felt intimidated and didn't even know the complainant this case and didn't know how her name got involved. In terms of the intimidation and the voter

lift, when we interviewed folks and then found out that it was legal to obtain the list of folks that had not voted, and that that's how their names came up to be contacted to vote, they became unconcerned. Their initial concerns were that some personal illegal information had been obtained and that's why they were contacted. Linda Gatz is the sister of the same candidate for superior court, but he was not on the ballot because -- he was on the ballot. She did not participate in this elections process. Ms. Gray was the one that was visited by the clerk superior court magistrate Judge. She said she knew them, that she was surprised that they knew that she had not voted, but again when she found out it was public record, that was not a problem to her. She was friends with both of them, was not the complainant and did not give in to them. So we couldn't find any violations and we recommend that you close.

**Chairperson Handel:** Anyone to speak on this case? Come up. State your name and address. Speak up so she can hear you.

**SPEAKER:** (unclear) I write letters better than I speak.

**Chairperson Handel:** That's okay. Don't be nervous.

**SPEAKER:** Okay. I am a cochairman of the (unclear) in Jasper County. And the complaints came to me one right after the other as far as I feel intimidated. I feel like they are call me, developer calling me. I don't want to put a sign in my yard because it's for somebody that they didn't want in office. So that was the main thing, and the intimidation factor was the thing that I wrote the letter about, because with at that point in time it was no investigation. Everybody was saying, how do they know who I voted for? Or I did vote. Or can they find out if I voted for this person or that person? And the other part of the complaint was when early voting when you went in, the voting machine was facing out toward the room and people would walk behind you and the screen was visible and you could see the person vote, as they were voting. And it happened to me. And I feel like, you know, that that's a private thing, one of the private things that we have in our life now is getting to vote. So, that was one of the things that I had complained about. The investigator came down. In November the machines were turned around. There was no privacy. And the thing that I really wanted to express is the appreciation to you looking into something for a small caught like Jasper because everybody is everybody's cousin, everybody knows everybody. And that is how I think this campaign got a little out of hand. We had a woman running, first time ever, a woman running in Jasper County. (unclear) we have the first lady commissioner in Jasper County and I appreciate (unclear), just keeping an eye on things.

**Chairperson Handel:** Thank you, for taking time to come here. All right, colleagues, any other questions? All right. Is there a motion.

**SPEAKER:** Move to close.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.)

**Chairperson Handel:** Any opposed. (no response) all right. Thank you, very much for bringing this to our attention and just so has that you are aware and as part of the normal course of business for the investigative decision, they do go out and go to all of the county's leading up to election to take a look Atlanta what's going on and how things are set up and make sure that there doesn't need to be changes made leading up to that election. Thank you for bringing that to our attention and that will continue. Thank you. Next case is 2008, 119, Midway Baptist Church.

**Ms. LaGrua:** The complainant in this case was with Terrell Williams. The respondent's Dan Landingham of Midway Baptist Church, Sade Boyles, the Probation Judge, Earl S., candidate for sheriff. There were two allegations, one was that within the 150 feet there were signs saying vote Christian values as well as campaign signs for sheriff within the 150-foot mark. Michael Brown was the investigator on the case. And he is here. He was unable to find any evidence that this campaign signs were within the 150-foot mark or the other side. In fact, had he measured the distance for where the Christian value sign was supposed to be and found to be under 150 feet from the polls, so we recommend that this case be closed.

**Chairperson Handel:** Is there anyone here to speak on this days? Anyone here on 119 Midway Baptist Church. All right it doesn't appear that there is. Colleagues, any questions on this case? Is there a motion to close the case?

**SPEAKER:** Motion .

**SPEAKER:** Second.

**Chairperson Handel:** All right a motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? All righty. We have case 2008, 137, Henry County.

**Ms. LaGrua:** Yes, ma'am. This case involved multiple elections. The complainant is, actually, my division. We received correspondence from a Karen Horn. The respondents in this case are Henry County board of elections registrations, Janet (unclear) as chairperson and Karen Horn. Karen Horn is a legal permanent aren't and was not eligible to vote and had has voted in numerous elections. What we were able to determine was that Karen Horn registered in 2004 to vote 3 DDS. Interestingly, as best we can tell from the DDS printout, she did indicate she was not a U.S. Citizen, but also indicated she wanted to register to vote. That registration was sent on top Henry County. She was registered to vote and did vote in a number of nexts. And in September of '08, she changed her address on a handwritten voter registration application and she checked no to whether or not she was a U.S. citizen. Henry County, however did and register her to vote at that time and it came up on the system. She was sent a letter asking her to contact the registrar. She independently did some research, understood that she was not entitled to vote. She contacted the second of state's office asking her to remove -- asking us to remove her from the voter registrations. It appears that both Henry County is in regulation for having

registered her to vote after she checked that she was not a U.S. Citizen and clearly Horn is in violation of the law for having voted as a non-U.S. citizen. It is recommended in this case that the case, as it pertains to the Henry County board of elections and registrations be bound over to the attorney general's office for appropriate sanctions. It is also recommended that Ms. Horn's case be bound over to the AG's office because if that case in the AG's office being held and her case is reported in the District Attorney's office for contempt and criminal charges.

**Chairperson Handel:** Is there anyone here to speak on that? (no response).

**Chairperson Handel:** Is Ms. Horn here?

**SPEAKER:** She was here earlier.

**Chairperson Handel:** She was here earlier.

**SPEAKER:** I was told that she with be here.

**SPEAKER:** She said that she has to work so she didn't know that she was scheduled.

**Chairperson Handel:** Okay.

**SPEAKER:** (unclear) I first got a call letting us know that she had sent a later saying that she was out of school. The first registration was done in 2004 with the DDS..

**Chairperson Handel:** And that was before DDS had made it's changes.

**SPEAKER:** That's correct. And when they come to your office you take them like they are. You didn't did sign and extend there is no check marks on the DPS. It has to be written out I have a copy with me. She did later do a change of address in September of 2008. She voted in 2004 and 2006, not 2008. If you look at the screen, that is one reason the system is working. (unclear) That's how she got the letter in the first place. (unclear) one check mark on the second, not first, and it contains a fluctuation of around 20,000 applications. I thought I had a system in place where my older veteran employees were doing the new ones and the ones that I brought in part time were just making changes. If they were already in the system and had registration that needed to be checked at some point, you know the driver's license. And that is one reason it shows that it does work. We need something out there in place to back us up. The lady that does our mail stamped right over it with the date that we received it. And so when I'm looking at the copy now, all I see is our date stamped over it. I have put into place a different procedure for opening the mail. It has to be stamped on the back instead of the front. Certain handwritten procedures I have put in place also, that they will check each check mark from the ones that come to us with checks. I feel like we have that in place. Out of 20,000 registrations in one month, trying to get them in, moved out moved in county, change address, we missed this one spot. We were the highest voting County of early voting, in the State. We voted almost 70,000 people early. We did our satellites 2 weeks in advance, got approval from the justice the department to do a 2-week 77, channel 11 came down and talked about how we were running

well. And we did. It made our election day brief. I'm very much glad we have this system in place that helps catch this, so she would not have been able to vote and did not attempt to vote in November. So I would ask that the case be dismissed or at the very least let (unclear).

**Ms. LaGrua:** However, one thing I will say is first of all, (unclear) is truly one of our best in the State. Secondly, you know people are not perfect and that is why we do have the back-up system, for the verification, but that being a separate issue from the fact that this individual knew that she was a citizen and yet she voted. So, I would like to see us kind of take these issues separately. Questions? Comments?

**SPEAKER:** Any chance that this one vote may have made a difference on any of the elections.

**SPEAKER:** We had no votes that were that close.

**SPEAKER:** Were the chairperson in 2004?

**SPEAKER:** I was director of collections elections in 2004. We have a Board of Election and legislation by members. We meet once a month and are very much informed on what's going on. In 2004 the DDS driver's license, we didn't question that because you have nothing to question that when they sign and date. I have a copy if you want to see it. That is the way it comes back. That is no reason to question whether or not she is a citizen. There is anything saying that.

**Chairperson Handel:** Motion?

**Ms. LaGrua:** Can you take them separately?

**SPEAKER:** Make a motion that we close the case with (unclear).

**Chairperson Handel:** Is there a second?

**SPEAKER:** Second.

**Chairperson Handel:** Motion and second, all in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** All right the second case is on Ms. Horn, and I regret that she not here. I will tell you what I am troubled by here is that an individual knew that she was not a citizen of this country and yet willfully voted any way. While certainly I applaud that she took the time to send us a letter, when the issue became in the news. I'm going to make a motion that we refer this to the AG's office as well as simultaneous justly to the Henry County DA for criminal prosecution.

**SPEAKER:** Motion .

**SPEAKER:** Second.

**Chairperson Handel:** Motion and a second. Questions or comments?

**SPEAKER:** No.

**Chairperson Handel:** All in favor.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** All right. Thank you. And with that we are going to take a break m we with do need to go an executive session on (unclear) and call it back at 12:45. It might be a little bit of after that but 12:45 and we can get started straight away with the afternoon.

**SPEAKER:** Motion (unclear).

**SPEAKER:** Second.

**Chairperson Handel:** Motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

(BREAK).

**Chairperson Handel:** All in favor?

(Whereupon, there was a chorus of ayes.):

**Chairperson Handel:** Any opposed? And let the record reflect that litigation was discussed and there was no action taken. The next item is Gwinnett County. It's a memo, page 8007.

**SPEAKER:** This case was presented at the last board meeting and (unclear) (noise interference) he was notified of this meeting. To my knowledge he is not here. (unclear)Sorenstall, who attempted to vote in Gwinnett County, the records showed him not to be registered. He declined a provisional ballot, believing that he was registered and eventually did not vote and is still not registered to vote in Gwinnett County. And it is recommended that this case be closed.

**Chairperson Handel:** Is Mr. Sorenstall here? Let the record show that Mr. Sorenstall was notified and has not appeared before the SEB. Colleagues, do you have a recommendation for closure? Any questions or comments?

**SPEAKER:** Make a motion that we close this case.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and a second, all in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? There being none that case is closed. All right. The next item that we will have before us is Fulton County, 2008 No. 84, No. 104, No. 134 and I think it might be in the front because I skipped over that one under tab 2 colleagues.

**Attorney Shawn LaGrua:** Madam chair if I could just for the Board's ease on this case because it's fairly long and fairly complicated I have a pour point presentation to help assist as I go threw the allegations and the findings in this case. Essentially, the Georgia Secretary of State's Office received in excess of 145 complaints on issues throughout the course --

**Chairperson Handel:** And you are?

**SPEAKER:** Respondent. Joseph (unclear).

**Chairperson Handel:** For what case, sir?

**SPEAKER:** 184.

**Chairperson Handel:** Okay. If you want to sit for one second, we're going to hear a report from our investigators and then I will be happy to hear from you.

**SPEAKER:** Excuse me. There were in excess of 145 complaints on issues throughout the course of voting that all (unclear) be general and runoff elections November and December 2008 this. Report is going to go over the series of complaints that we got during that time. Over 27 of all the complaints we received were issues in Fulton County. Early and advanced voting we with monitored both north, south, central, offices of advanced voting. The south annex we found no, in particular violation. The north annex there were long lines of voting in addition the election officials were not ensuring voters were returning the issued voter access cards. The respondent on that particular indication was Janet \*Cue, who is the north annex precinct manager. As we go through in the central office, again there were long lines of voters officials failed to note their reason for rejecting absentee ballot applications. Rejection letters were attached to the application, but never sent. And officials failed to post two voting instruction posters in the voting room outside. The respondent in that case is Beverly Walker, Shawn Kelly, Glenda Williams and April Todd. In terms of the unsecured voting machines at the north annex we got a complaint from Daniel Newfield. He stated that he was in the room at the north Fulton services center where voters were waiting in line and there were a number of unsecured voting machines with memory cards hanging from them. What we found was the machines had been used for poll worker training the week prior to the election. They did not have skills on them and prior to October 20th when we did the inspection they had been kept in another location. The County delivered additional voting machines and they were all moved into the auditorium. Unfortunately, once we got there and realized that they were in the auditorium, we found that the seal even the DRE units was the only security for the unit and that the annex building where the machines were kept, did building itself was locked in the evening, but the auditorium where the machine was kept was not locked. So you have a government annex building and the outside doors are being locked but other than that the voting machines are not being secured. So there are a number of violations, and again Janet (unclear) who is the north annex precinct manager at that location. There are violations of O.C.G.A. 21-2-379.9 as well as a number of rules

violations. As we continue to do our early advanced voting monitoring we had had allegations of disorder at the Adamsville Recreation Center. When our investigator responded to that location she observed someone fitting the description of candidate Ralph Long, who was running for office at the time. Long was there with a group of Senior citizens and was overheard telling people it was a important election. He also was identifying himself to the voters as Ralph Long, a candidate on the ballot, running for state representative in the 63rd District. He told the investigator that he wasn't aware that this was had his district and he was just dropping off his Seniors. Clearly, however, he was with campaigning at that location and would be in violation of 21-2-414(F). There were also allegations of disorder at the advanced vote and the central office precinct and the government office building on Pryor Street. Eric Pettaway had been there and voted and said it was very loud and he was unable the hear the instructions. If you remember we were able the substantiate this. There were copies of applications on the table that had been left unattended. Voter access cards were being put in workers pockets, left on the board and left on the tables. So Beverly Walker was that precinct manager and there were rules violations for not ensuring that voters were returning the issued voter access cards. Also at the central government office building, there were allegation of poll workers not requesting proper voter identification. We got a complaint from Joe B. stating that had he voted there during early advancing, he completed his application and attempted to show the worker his photo ID. He was told by the poll worker we don't need that here. While he waited head observed at least 20 other people attempt to show ID and the response remained the same. When he was called he attempted to show the poll worker again, his ID, and got the response never mind. He was at the precinct approximately 1 hour and never saw anyone check the voters' identification. We did not see this going on when our investigators were there; however, Mr. Burger, I should let the board know, is at this point familiar with the election law. He was involved in the prosecuting attorney's counsel on our Chattooga County case. And so unlike many folks was intimately familiar with the requirements of voting and candidly told (unclear) Sims that his ID was not looked at and had been told that was not a necessary part of the voting process. And Beverly Walker, again, was that precinct manager. There was also an allegation, Ms. Brown on the next one, there was an allegation that Fulton County was using the wrong application for absentee balloting. And what had happened was for in person absentee balloting they were using the mailed forms. So the form that they were using did not contain the proper oath. And it's hard to tell at this point how many voters were allowed to vote without signing the proper oath. When that was brought to their attention, they admitted. The application was changed. Brenda Williams was the registration chief. She indicated she knew there was another application but didn't know the content of it. Again that would be Shawn Kelly, the absentee ballot clerk is respondent. Brenda Williams, the Registration Chief, and April Tyler, the Interim Director, violation being rule 183114.0210.

**Chairperson Handel:** Do you know for approximately how long the wrong forms were used?

**Ms. LaGrua:** We found out on October 15th of 2008 so well into the early voting period. We could calculate the number of days, but we also received numerous allegations throughout this election process that voters did not receive credit for voting during the early and advanced voting period. We had six complaints early on. Five of those eventually received credit for proper voting. One individual, is her daughter, which we had found in the improper location with expressed poll voters, votes being given credit for a different family member because they are

right next to each other on the express poll. When we went to the inspection of the absent ballot, the central office, and found out about absentee ballot problems, they are numerous. So I will start --

**Chairperson Handel:** Just for clarity, you are talking about mail in ballots.

**Ms. LaGrua:** Now, I am talking about mail in absentee ballots. Thank you, madam chair. Investigator Marlo, who is the lead investigator on this case, and she is here, handles specific qualifications. Denise Williams, I sent them over there to investigate to allegations because we were continuing to get calls on a daily basis into our office that people had applied for absentee ballots and they weren't receiving them. When we first made a visit on October 30th there were approximately 2500 applications in the office being processed. Approximately a hundred of those 2500 had been received more than a week prior to October 30th so some time prior to act 23rd. Approximately a hundred of the 2500 had not been processed because the voter was newly registered and we had no scanned signature in the system. Approximately, a quarter of those were received between October 4th and October 10th, so 20 days, 20 plus days after the receipt of the application the applications had not been processed and no ballot had had been mailed to the voter. Approximately, 300 of the 2500 applications that we reviewed had not been processed because there was no scanned signature and the applications had to be verified with the original voter registration card. Again, a problem, because they have to be able to get those within a certain amount of time and they were not able to retrieve them. The application in the office, indicated that the ballots had been mailed to the voter. So we find a number of applications that haven't been verified, but the records in Fulton County show that those ballots had actually been sent to the voter, even though they haven't been verified, but in fact the ballots had not been sent at all.

**Chairperson Handel:** So they said they were sent but they weren't.

**Ms. LaGrua:** Correct. They weren't verified, so they shouldn't have been sent. They said they were sent, but they weren't sent. As of October 30th. There were approximately 35 applications. Prior to October 19th, it indicated on the application that the ballot had been mailed. The ballots had never been mailed for these 35 applications. There were 50 of the applications that we reviewed out of the 2500, so 2 percent had been rejected and the voter had never been notified. So the voter is waiting for an absentee ballot. They have not been notified. Their application's been rejected, but no ballot's been sent. 78 of the 2500 applications were selected and copies were made. All of the application that's we copied and kept note of were received on or before October 21st, so over 10 days before. The date that the ballot was mailed was written on all of the applications and reported in the Fulton County absentee ballot sub-system. None of these ballots that Fulton County reflected had been mailed had ever left the Fulton County absentee ballot room. The voters of those application that's we took were later looked up in the State wide voter system. 22 of the 78 never voted during the November 4, 2008 election. Again, we had the absentee ballot registration chief April Fry (unclear), I don't think responded. We went back to the absentee ballot office on October 31st and there was a stack of 300 unprocessed application on the desk of Shawn Kelly the absentee ballot clerk. These applications -- October 31st, y'all may recall, was Friday before the election. So on Friday before the election, there is stack a of 300 unprocessed applications on the absentee ballot clerk's desk and they had not been

processed because the original voter registration card could not be pulled at that time and they hadn't been pulled and thus the application was still there. I believe it was either on the 30 or 31st that Secretary Handle sent a letter to the Fulton County board of election and registrations indicating that any application that's had not been processed needed to be processed in a timely manner so that the people requesting absentee ballots with would receive their absentee ballots in time to vote in the November 4th election. We went back on Monday to inspect the absentee ballot issue again. What investigator Marlo found was that they had determined the eligibility for all applicants and all the voters eligible to receive an absentee ballot had been mailed one or a note that it was being mailed on November 3rd for a November 4th election. Now, Fulton County did mail a number of ballots by Federal Express. The total of 4,033 ballots were mailed by Federal Express. The statistics on that mailing are as follows: Of the 4,033 ballots mailed, 79 were mailed on Friday. 358 were mailed on Saturday. 2,202 were Fed Exed on Sunday and 1394 ballots were Fed Exed on the day before the election November 3rd. Total cost of the mailing was 287,620.17. Now, of the 4,033 ballots mailed by Federal Express, 2,015 were returned unaccepted. So approximately half of the ballots that were sent by Fed Ex actually were returned and processed. 812 of those 4,033 voters voted in person. 1,077 of those ballots were never returned or -- now follow me on this. 4 of the ballots were returned but rejected because the application for the ballot was rejected. They rejected the application but mailed the ballot, and four of those were returned. 7 returned and rejected because the oath was not signed or signed incorrectly, which would be normal procedure. One was returned and rejected because the person who assisted did not sign as assisting. 117 were returned and rejected because they were returned too late. The big statistic on this is of the 4,033 ballots mailed by Fed Ex, 1206, 30 percent of those voters did not vote in the November 4th, 2008 election. So 30 percent of the votes that requested absentee ballots did not vote for whatever reason.

**SPEAKER:** Quick procedural question. If you receive the ballot by Fed Ex and you returned it, what was the means by which you returned it.

**Ms. LaGrua:** Mail or in person.

**SPEAKER:** They didn't have a prepaid Fed Ex or anything like that.

**Ms. LaGrua:** Not that we're aware of, no.

**SPEAKER:** All right.

**Ms. LaGrua:** Now a 10 percent sampling, 401 we took the 10 percent sampling of the 4,000 Fed Ex ballots to go through this and compare to the absentee ballot sub-system. The date that was mailed, as indicated on the Fed Ex list that we got, was compared to the absentee ballot sub-system, indicating when the ballot was mailed. For four percent of the 10 percent sampling the system as accurate. For 12 percent of the 10 percent of Fed Ex the system did not indicate at all the ballots had been mailed. And for 84 percent the system was inaccurate as to when the ballot was mailed.

**SPEAKER:** Is that because the system indicate that the ballot had been mailed before it had actually come in.

**Ms. LaGrua:** I assume that's the reason, correct, and that nothing was done to update the system. Mind you, going back we found all kinds of ballots sitting in Fulton County absentee ballot clerk's office that indicated both on the application and in the system that they had been mailed and the ballots were still sitting there in the office and had never been mailed. We also received a number of 52 actions complaints. The voters did not received absentee ballots as requested. We followed up on as many of these as we could find. 16 of the 52 actually when we did the follow up did receive aspect absentee ballot. Three of the 52 received an ballot after the election was over. One received it on election day but was out of town. 19 were contacted and maintained that they never received an absentee ballot. 10 of those 19 that claimed that they never received it did not vote during the November 4th election. We made attempts to contact the remaining 13, but were unable to get in touch with those. Voter information, again we check the State wide system. Up to 52 complaints 27 actually voted, so barely more than half of those that request an absentee ballot to be done that claim that they the didn't get their absentee ballots voted, 8 by returning an absentee ballot, only 8 of the 52 claimed they didn't get it actually (unclear) voting absentee. And 19 voted during advance voting on election day. We received again a number of complaints that voters received an absentee ballot too late to vote, didn't return it. 7 of the 12 complaints (noise interference) absentee ballot on election day. Those voters those 7 submitted their requests between October 9th and October 28th. So well in time should have received an absentee ballot. One voter received an absentee ballot on November 3rd, however, he was out of town and therefore couldn't vote it. Two received their ballots between November the 3rd and the 8th. Those two requested their ballots on October 22nd. One voter was unable to be contacted. We had a number of allegations that voters received more than one absentee ballot. One was, we actually investigate for McBrayer with our office was at the north annex when someone came in. The two absentee ballots, the absentee ballot manager at that time did take one of the ballots to process it to void it. The other was received by our licensing director. Received two absentee ballots in the mail and again brought that to our attention, that he had received actually two absentee ballots. We also received a number of complaints that voters did not received credit for voting by absentee ballot. After we checked into it after the election was over, 7 of those 8 actually did indicate that they received credit for voting. We had allegations of absentee ballot fraud. We received a complaint from Melissa Berray, alleging that someone had used her information to obtain an absentee ballot. We found no indication that an application was made in her name. It looks like the absentee ballot information may have been entered in the wrong electors record. We could find no reason to believe that this was anything more than an data entry or clerical error. We did also receive a complaint from a Ryan Mahey stating he was given credit for voting but did not vote or request an absentee ballot. We could not locate an absentee ballot application. We tried to contact him for additional information. We could not get a hold of had him, but again, again it appears, giving any benefit of the doubt, that that may have been a clerical error also. We received an allegation from Judge Forester in federal court, that had his mother-in-law and two other voters who lived in the Lindberg assisted living home received absentee ballots but did not request one. We did follow up with these voters and it appears that because of their age they were eligible to request a series of ballots and they did so and they were sent absentee ballots that they didn't remember they had had requested because they had checked the box asking, because of their age for them to receive the ballot. So there did not appear to be substantiated allegations in regard to that. We did receive a complaint of -- can we go back one? We got an allegation from

Washington DC or Virginia from Amid Abanafoster that she had received 7 voters' absentee ballots. And we thought the initially that there was some kind of error or clerical but we were able to contact her and ultimately she actually sent us back in a box on election day at her residence in DC she received a box of seven absentee ballots. None of the other ballots were addressed to her address. They were supposed to be sent to seven other people, three in Washington DC -- I'm sorry three in Washington DC, three in Maryland and one in Virginia, none of them she knew. We don't know how that happened. I apologize for my expression. We cannot figure out how this could happen. The only thing that is interesting and looked like. So, I don't know whether to use intentional but at least thought out processes, they were all in the Washington DC northern Virginia area, all of the ballots that were sent were to persons living in the DC northern Virginia area but not to this woman and she didn't know these people. And she did sent us these ballots back. There was allegation that an absentee ballot was mailed to the incorrect address. Ultimately it may not have been supposed to have been mailed to a different address but there was nothing on the application that indicated whether -- the application actually indicated it was rejected because there was not enough information with the address. It did not indicate whether the voter was eligible to receive an absentee ballot and it was not marked as to when the application was received or when the ballot was even mailed. We have an allegation, as well.

**Chairperson Handel:** How much further do we have.

**Ms. LaGrua:** I'm on page 12 of the summary. We go to page 16.

**Chairperson Handel:** Okay.

**Ms. LaGrua:** I can try to move it along.

**Chairperson Handel:** No no no. I'm just curious.

**Ms. LaGrua:** If I need to speed up, let me know.

**Chairperson Handel:** No no.

**Ms. LaGrua:** We had an allegation from Sally Fitzgerald, who is here, as indicated, she doesn't need to speak, but she let us know she was a poll manager on election day at the (unclear) Tower. She did not receive a password for the express poll. And a password was needed in order to allow electors to go to the precinct that did not get their absentee ballot so that she could go ahead and cancel the absentee ballot. She could not get anyone to answer to phone at the main office so that she could report the voters that came in with an absentee ballot. Follow up was done and apparently there was an inner office memo that came out later on how to do it properly for the runoff and the instructions changed from what they were given for the original election which apparently were wrong and changed for the runoff. The new instructions were that voters did not have to have their absentee ballots with them and the application could be completed by the deputy registrar and we did get ultimately a copy of the inner office memo. But, originally, the poll manager was not provided the appropriate tools to be able to sell an absentee ballot when someone came in and had not received their absentee ballot. There was

allegation that more votes were cast than the number of registered voters. Apparently we got Earl Ferguson stated that there were more votes cast than there were registered voters in a (unclear) precinct, which is in the Presbyterian Education Building. We actually went ahead and looked at that. Ultimately what we were able to tell is there were some clerical errors. The registered voters were entered manually in the GEM circle. And when they went there were some data entry errors that were identified and corrected subsequent to the initial publication's unofficial results, but when the official results came out they were correct. This was not a machine error. This was a human clerical error and it was corrected and the official stated that (unclear, voice trailed off) we received an application an allegation for a voter application registration was completed actually on Election Day. Linda Goodman stated she had had to complete her voter registration on Election Day before she voted. She did submit her registration by mail before the October 6th deadline. She stated her name did not show up on the web site for registered voters. So she called Fulton County, was told she did not sign her application and that she had to come to the office and sign the application. The voter application registration indicated that the application was made on October 1st, that registration was active on October 1st, but there was nothing in this system, nothing to indicate it hadn't been signed and she was never sent any notification that there had had been any problem with her registration. There was an allegation that voters did not receive credit for the voting by traditional ballot. When they contacted us they had not received credit. So by the time we were able to review, all those five voters had been given credit for the provisional ballot. After the election we had allegations from numerous sources that at the warehouse where the Fulton County was tabulating the votes, that there were problems. I had investigators, as soon as we learned of problems, we had investigators there whenever the tabulation center was manned around the clock, through the night, 24 hours a day while they were open. What we were able to find was that poll workers were allowed to leave the tabulation center prior to transmission of the unofficial results to the Secretary of State's office. Duplication teams were not verifying the ballots once they were duplicated. Poll workers were observed duplicating the ballots by themselves and not having them checked by anyone else. Poll workers performing the duplication process were allowed to enter and exit the duplication process, at will. There was no security check. There was no oversight. There were poll workers that left and did not return from a lunch break. They weren't supposed to leave the confined area during a lunch break. One poll worker was told he couldn't do ballots by himself so he left and never came back. The absentee ballots were left on tables unattended with no security or calculation of what can happen to them or what was being done. The poll workers were not being supervised efficiently to make sure they were doing what they were supposed to be doing. We found a basket of unsecured ones on shelves just sitting there with no security. Nobody knew what to do with them. Investigators asked the poll workers if they knew what the ballots were. No one could answer them, where they came from, why they were there. There was an allegation that that proper photo identification was not requested at a precinct, and this was from Gayle Troyer the complaint came from a pole watcher at Sylvan Mills middle school, stating the voters were being allowed to vote without proper identification. The poll manager (unclear) Smith was interviewed and he said he allowed three voters to vote without proper ID because they were regular voters and he knew them. We had an allegation that the Fulton County board of elections did not properly publish the absentee ballots tabulation procedures. We were not able to establish from the Fulton Daily Report. We have asked for a copy of their posting. We have not received it. And we also received an allegation that proper poll procedures were not followed at the North Menster Presbyterian church. And actually, just

so the board knows, Matthew Barrett was one of the complain complainants I believe was here earlier. He had to leave. Just wanted to let you know he had had been here this morning. We received word that that precinct was not allowing voters to cast ballots on the DRE machines. When we got up there we found that Chris Boudine, an assistant manager, had arrived at the precinct about 6:30 and the poll manager did not arrive until 7, a Joseph Mayer. The extension and (unclear) units could not be found, and so the DRE units were not opened. The voters were allowed into the precinct about 10 after 7:00. And we're told there were technical difficulties and were offered provisional ballots. Most of the voters left. At approximately 7:30 the DRE units were open, using battery power. The oaths for the managers and clerks had not been completed. We sent in an investigator when our investigator arrived he observed that both the poll manager and the assistant poll manager appeared to be impaired and high or on drugs. At approximately a quarter to 10:00 the election coordinator Marsha Rigly arrived and relieved both of their duties. We also received another allegation that in the runoff that electors did not receive an absentee ballot, as requested. We attempted to get in touch with some of those folks and were not able. Of the three that we with were able the talk to. Fulton County claims they did not receive the absentee ballot request for the three individuals that complained of that, so we were not able to substantiate whether there was a problem with that or not. We did have an allegation that electors went to the proper precinct and were not allowed to vote. We got a complaint from Linda Marsh stating she went to the precinct listed on the poll locator. When she got there she was told that was not the polling place. She and her husband went initially to the (unclear) elementary school to vote. Apparently, this is a weird thing where there were two precincts at different locations within a school. And initially they were told they weren't on the list and left. Mr. Marsh went back later in the day and was allowed to vote. Mrs. Marsh never went back. We tried to get in touch with her to see if we could figure out if it was possibly the wrong precinct she went to. We have not been able to get a hold of her or have her respond to any of our inquiries. That's, as best we can tell, the allegations we have for the board. Obviously my recommendation would be that they be referred to the Attorney General's Office. And I believe Mr. Parks is here on behalf of Fulton County, as are a number of other folks.

**Chairperson Handel:** Mr. Parks, do you want to address and are any of the individuals who submitted complaints here who wants to speak. Anyone else who submitted a complaint who wants to speak? Did you submit a complaint?

**SPEAKER:** No, ma'am I'm a respondent.

**Chairperson Handel:** Okay.

**SPEAKER:** Afternoon. What I would post to the board is because of the lent of this and . Mr. (unclear) who is not able to (unclear) me about it yet presentation by inspector general.

**Chairperson Handel:** Can you speak into the Mike.

**SPEAKER:** Is this better?

**Chairperson Handel:** Yes .

**SPEAKER:** I think the best way for us to respond is for us would be to try the provide a written response because of the numerosity of the complaints, rather than going through this verbally it reaches a point of just retention. I did make a note in report and for presentation today of the individuals that are my responsibility would be at least based upon the alleged responsible dent you might want to verify this Shawn Kelly who is a terminated employee, I don't know if you will recall, prior sessions we had he (unclear) on duty. So I don't have you here to represent him but will endeavor to obtain that because he is trying to make it in. Brenda weighed, Beverly Walker, Dwight Roud, April Pie, those are the five current or foreign Fulton County board of registration election employees that I would respond on their behalf. I understood there was four poll workers mentioned. I might have missed a name but Ms. Ajanaku, A-j-a-n-a-k-u, Christopher Boden, Joseph Magner, and Jabray Smith. Again, since they are not employees I did not try to contact them to represent them in this. (unclear).

**Chairperson Handel:** I think (unclear) here today.

**SPEAKER:** They may choose to represent themselves, but we'll make an effort to do that. I'm concerned with a copy of that response (unclear) circumstances amongst the board members in the hopes that that could provide a predicate that we could discuss (unclear) and try to resolve this short of litigation. That's the board's directive on behalf of the employees.

**Chairperson Handel:** Did anyone else want to speak on this. Any of the pole workers that were named, anyone who submitted a complaint. I wanted to make sure that anybody who wanted to speak had had an opportunity to speak. Do you want to speak? Come on up if you would like to speak.

**SPEAKER:** Madam chairman --

**Chairperson Handel:** Will you tell me your name and address and how you fit into all of this .

**SPEAKER:** Yes, ma'am.

**Chairperson Handel:** Thank you.

**SPEAKER:** Yes, ma'am. My name is (unclear) Disrayl Smith. I'm to poll manager for precinct 12-C, Sylvan Hills. My address is 300 Fox Trail Drive, College Park. I have been the poll manager at that precinct for about 8 years. It's a small precinct. I think we have about 1300 poll voters. And it is an (elderly) precinct. And it is really not handicapped accessible. You have to walk up a long flight of stairs and then students in the cafeteria (cell phone interruption). The charge is they let people vote without ID. Mr. (unclear) had been there a couple of weeks earlier and they just forgot to bring their ID. I was not about to send these folks home to get ID when I knew them. They had voted consistently. The folks who vote do vote. And, you know, given list of other offenses that this was just a situation where I knew these people. I was comfortable with who they were. My staff is well familiar with the machines. They voted before. So it is a simple matter of letting them go ahead and vote. And I think this is something that really should just be, not bound over, but dismissed or whatever way y'all do it.

**Chairperson Handel:** We would also make a notation that we have a poll manager who says one of Fulton's precinct is not handicapped accessible. And I would like that precinct checked out. With that said, you realize that requiring photo ID is the law.

**SPEAKER:** Yes, ma'am.

Chairperson Handel: Did you want to speak ma'am? A couple of things. I do think there were some question from Mr. C (unclear).

**SPEAKER:** (unclear) very complex matter. That means a lot to me in terms of what Fulton County is trying to do to rectify this issue. I understand that if we are to bind this over, which I rather assume that we do, your intention is to resolve this through a consent order to not go before an administrative Judge.

**SPEAKER:** That would be my hope. And I just thought the most constructive way to begin that dialogue, one so there will be transparency between what was going on between me and Mr. R. (unclear) initial report I understand we did have conversations just given the number of people that need to be interviewed, talked to, before I can (unclear) we have already begun our own dialogue. It just seemed to me that and we are not opposing that the issues the charges that the inspector general at least deemed (unclear) charge before the (unclear) that's the predicate for our dialogue. And that's the predicate for our rapport. To answer your question directly. That's our hope. We have come a long way with the last consent order. And we don't want that progress to be stopped with a dispute over these issues.

**SPEAKER:** Thank you.

**Chairperson Handel:** I don't really have a question but I do have a comment. I certainly appreciate that Mr. Clark thinks that we have come a long way but frankly my concern is not around come argue long way on a consent order. My concern is around Fulton County coming along way in getting the election provision in shape. And we just sat here for well over a year dealing with the 2007 complaints, colleagues, and I would like to ensure that if this process goes forward that Mr. Rivers we're not going to take over a year again to deal with this because the next thing you know we are going to be back in a another election, Fulton County, there has been no progress in dealing with the staffing issues there in terms of the individuals in that office. I mean, I am absolutely appalled that here we are again, knowing how bad things were back in '07 folks and yet it appears that virtually nothing was done to get ready and to do what needed to be done for '08. And I that was not for any lack of effort or trying on the part of the state elections office, because members of the county elections office will tell you that not only did Mr. Taylor and I personally take the time to sit down and try to urge and coach and do everything we could to encourage Fulton County to be ready for November for this Presidential election, to have this number of things come forward and our office was inundated with complaints, and I mean inundated with complaints about what was happening in Fulton County and that is just an absolute disgrace and we have to figure out a way folks for Fulton County to move forward and I say we, because we are going to have to monitor it and that monitor will be appointed. But ultimately it is Fulton County's responsibility to have a professional elections division. I'm going the make a motion to turn this over to the attorney general's office with a request that Fulton County's written response be received within two weeks from today. Okay 30 days from today

that at our whatever is the next public sitting and we have a report and that we will take no longer than three months to negotiate a consent order before it comes back to this body. And that includes -- I'm talking 3 months total, not a month plus three, but a month for the written report and then two more months after that. That's my motion.

**SPEAKER:** Motion.

**Chairperson Handel:** Let's see if I get a second. Is there a second.

**SPEAKER:** Second.

**Chairperson Handel:** Yes.

**SPEAKER:** First of all, let me just say I share your concerns about the time frames of this case. And I think at the AG's office they are basically ready to go (unclear) right now. I look forward to the report.

**Chairperson Handel:** We need to say for the report Smiles --

**SPEAKER:** Statement of matters asserted. And that's the initiating document in the office of state administrative hearings and starts the administrative hearing on behalf of the Board before it can be factored. You said 30 days for Fulton County to submit the report which will be after June 2nd. And then after that it will be about two months left for negotiation. Are you envisioning at the end of those two months if we are not able to resolve this, if the Court does vote for probable cause, I would also like to sound is board for its sense of what it thinks the appropriate sanction might be, because I think that the sanction issue in the last case and probably in this case (unclear) resolution of the case. I really do not want to fool around with that. (unclear).

**Chairperson Handel:** I would be open, colleagues, to once we have the written response back having a meeting on that. There is a lot to digest and I'm interested in Fulton's response. And I'm sure everyone else is as well. So if my colleagues are amenable I'm find withholding a meeting when we get back with the reports. And then we can give the guidance then.

**SPEAKER:** That's fine with me.

**Chairperson Handel:** Motion.

**SPEAKER:** I have a question.

**Chairperson Handel:** I do have Mr. Worley waiting -- and then we will -- did we get everything for you.

**SPEAKER:** Yeah I think the one thing in the meeting, having the subsequent meeting would resolve my concerns. On the 3-month deadline, I perfectly understand that. Did I understand that correctly 3 months tells (unclear) what to do.

**Chairperson Handel:** That's my understanding. Okay Mr. Worley.

**SPEAKER:** I'm fine with that. (unclear) move as quickly I don't know what sanction we could impose.

**SPEAKER:** (unclear).

**SPEAKER:** There is a serious problem. There is obviously a very serious problem here in Fulton County. Frankly, we hear lots of other problems that aren't related to this. I have one concern, though and I realize that the Secretary of State's office is very busy in terms of (unclear) inspector general's office is very busy. On behalf of the six months ago and this is really the first time, in an organized way, that they have been presented to the election board. And I realize the deadlines on other matters that no one is subject to, but the real problem is six months after the election, if this was brought to the public's attention 3 days after the election or 2 months after the election, there would have been a lot more attention, a lot more publicity about it, a lot more reported on it. I don't know if there are reporters with the AJC here.

**Chairperson Handel:** With all due respect, there has been a great deal of press attention around all of this.

**SPEAKER:** Well I don't think there has been enough.

**SPEAKER:** Well, I think there is going to be more.

**SPEAKER:** The extent, all I'm saying is the quicker that things can be brought to the public's attention the better. I certainly understand --

**Chairperson Handel:** We would want a thorough investigation.

**SPEAKER:** I agree we want a thorough investigation, but some of these things are so outrageous that they really need to be -- well some of them. They are not really complicated.

**Chairperson Handel:** I want to remind the board that a specific decision was taken by (unclear) '07 and I believe that was at a motion from Mr. Worley to resolve '07 first and then come to '08, so frankly that is attempting to follow the direction around all this, but these are all very serious.

**SPEAKER:** All I'm saying is these are very serious allegations.

**Chairperson Handel:** Absolutely.

**SPEAKER:** And they deserve a lot of public attention. And I hope that that public attention will help correct the matter. Again, I don't know if a specific sanction is going to do that. (unclear) specifically Fulton County needs to do to correct the problem.

**Chairperson Handel:** One question on that would be what is the status? I guess we can ask. The board would be interested in knowing. What is the status of the search for a new elections record.

**SPEAKER:** The professional search (unclear) candidate nationwide. Just recently a candidate (unclear) was advanced with one of the commissioners for approval and that was rejected. (unclear).

(court reporter repeatedly asked speakers to speak into the microphone).

**SPEAKER:** I'm sorry I keep forgetting the speak into the mic. The comment was what was is -- you're right. It's not -- you might be able to ensure that poll workers do a better job with their reprimands or with a small fine. The problem that I think you want to talk to me about is a management issue. That starts with the hiring of an executive director. And hopefully that person that will be approved will be in place. It was a strong sense of our board the Fulton County board of registration and elections that the person that was willing to sit in that chair needed to be to person that made the staffing decisions, as opposed to a Fulton County board of registration and elections below the executive director position. That's the way the local legislation intended it. Our board doesn't have hiring and firing authority. We have to have it approved by the board, but we don't even have the ability to get approval for positions below that. And that has been a slow process that has been very very frustrating by our own Board, the fact that initial candidate was rejected, extremely frustrating.

**SPEAKER:** How long has the search been going on. I think it kind of somewhat is disingenuous, frankly to try to attempt to throw the Board of commissioners under the bus on this one.

**SPEAKER:** No. I'm not at all. I'm just saying that that was the first time that we have been able to get -- there have been plenty of offers made. The first time we have been able to get a candidate to accept and the approval. So not at all. I don't even know why the Board rejected.

**SPEAKER:** Are you saying the Board of Elections approved your candidate but the county commissioners did not.

**SPEAKER:** Yes. We don't have the power to fill a position without the commissioner's approval. But another candidate is going forward, and expect that candidate to be approved and we will have a new executive director, which will hopefully be the catalyst to addressing some of the management issues that you are speaking of here today. The other issue I would raise and I have no problems where we talked about, I want to get the report done as to whether or not we had a chance to find out what the facts are. If there is a going to be another dialogue with the board a about appropriate sanctions as opposed to meeting and negotiating with Mr. Withers, I would like to have an audiences in that, only to speak with you about what we would propose. In other words, if Mr. Withers, (unclear) to negotiate, that's fine, but he simply wanted to get an, you know, what the sanction should be. Then after we plenty our report and I may open -- after we present our report and Mr. Withers and I may have opened either way we are (unclear) always good to talk about sanctions because to the extent we can stipulate on the fact at least we agree on a whole bunch of facts, and we are only talking about sanctions. It seems to me that that would be the productive discussion to have. The sanctions before the 2-month period of your meeting if it is going to be a meeting like this and not the negotiation with Mr. Withers I

would like to have an opportunity to discuss that meeting. Did I make any sense?  
(no response).

**SPEAKER:** I was sensing that you all were saying that you all would decide. (unclear).

**Chairperson Handel:** Once you give a written report what I'm saying or what the motion on the table is that we are going to hold another meeting. All of our meetings are public so you will have an opportunity to hear what our question is. This Board has always been open to (unclear) your response back to what our discussion is. So I see no reason that that would be something separate. Let me be clear. It's not going to be a negotiation with you around the sanctions. I mean we are not going to negotiate necessarily with you. This Boyd is going to make a determination of what we think and get back to Mr. Wither and it will be with or without our guidance to negotiate further. And I'm not going to speak for the whole SEB, so we'll see what their pleasure will be, but it's on the facts that come back.

**SPEAKER:** Mind which was not to negotiate. If there was going to be a meeting where sanctions were going to be discussed I would give you my thoughts on that.

Chairperson Handel: Absolutely. Absolutely.

**SPEAKER:** Mr. Parks this may all be clear, but I want to make sure that I'm clear to this. In your written response you will make some proposals with respect to sanctions. Do we have guidance from you on what you think is appropriate?

**SPEAKER:** Ultimately, yes. I think the first goal is to try find out what the facts are, just if we disagree on the facts, whether we disagree or why. Shortly thereafter I fully intend to, at least, give you what we have to propose on that which would include on the memorial update, on the personnel issues, which I think are the driver of this. And we understand that. The more that we can do on that promise then, hopefully, the more you will understand how serious our Board is in trying to rectify what we admit to be shortcomings in our staff.

**SPEAKER:** I want to be clear that suggestions about sanctions in the past. I didn't agree with any of those and objected to all of them, but nonetheless it is a great impact on this Board. I said you will have me as a friend, but the reality is I think that would have been helpful (unclear).

**SPEAKER:** Thank you.

**Chairperson Handel:** Any other questions or comments colleagues?

**SPEAKER:** Motion.

**SPEAKER:** Second.

**Chairperson Handel:** There is a motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed.  
(no response).

**Chairperson Handel:** All right. Thank you. Okay. Our next case will be part of the Attorney General's report with Stefan Gritter and Ann Brumbough, case 2004, No. 21 Macon. That's under tab 16.

**SPEAKER:** Thank you, Madam Chair. Of course, I am Stefan Ritter with the Georgia Attorney General's Office. Let me begin by way of making a small apology. The fact that you are having to hear me on this rather than (unclear) Almon and I will try to not try to fill her shoes by presenting this material. Ms. Almon's mother, unfortunately, passed away last week. She is in Alabama with her family. She is very close to her mother. This is a tragic loss for her. Each one of these matters is one of her matters and so I will do my best to try the present what we have. However, I will probably be relying on some of the respondents and occasionally -- in my ignorance, I didn't want put anything off, so I we could move everything forward if at all possible.

**Chairperson Handel:** And if there is one that you feel like you do need to, just let us know and we can table that because we have got a meeting coming up any way.

**Mr. Ritter:** Absolutely. So let me just take them in order and you will start with task 16 which is Macon County with respondents of Edward Lee and Eugene Hill. This case was previously presented to Ms. Almon to the following the hearing in which her witnesses who were subpoenaed did not appear. She had five witnesses she had subpoenaed. I have the returns of service in our file. But none of those witnesses appeared and she did not present her case at that time. She shows to dismiss the case without prejudice at that time. Briefly, this is a case involving two individuals Ed Lee and Eugene Hill, who assisted other voters in voting. First Mr. Lee assisted Mr. Hill under the belief or asserting that Mr. Hill was illiterate, but then Mr. Hill assisted other voters suggesting quite strongly that Mr. Hill is not illiterate. In fact, quite a number of voters that assisted by these individuals, those are the witnesses who are not here. So the case was dismissed. My feeling is that the sanction in this case this is a 2004 primary case from Macon county. Given the date, it could be difficult to prove the case; however, my recommendation would be that we refile this and seek the proceed if we can't get a consent order with an appropriate sanction. Ms. Almon notes that the contact of the response this case Mr. Lee and Mr. Hill, did not affect the outcome of the election and there is no evidence of intentional wrongdoing by them. In fact after meeting with Mr. Hill, Ms. Almon believes that there is evidence that he is in fact functionally ill literate at best. For that reason, she would recommend that we seek a cease and desist-type consent order with the respondents to resolve this case.

**Chairperson Handel:** Questions colleagues?

**SPEAKER:** How much have you sagged for (unclear) 2004.

**Mr. Ritter:** We sagged some of these cases off given the number of case that's were inherited by us from a prior group. And so the sag didn't start in 2004 but we did sag out old cases like the

2004 case. This is one of them. Sag did a good job, but she is not able to resolve this case.

**SPEAKER:** The first sag of this type.

**Chairperson Handel:** We had a couple of other cases that presented about a year ago that the sag also did.

**Chairperson Handel:** Do we have a recommendation so seek to C and D if a consent order is entered. (unclear).

**SPEAKER:** I'll make a motion.

**SPEAKER:** I'll second it.

**Chairperson Handel:** All right. Motion and second. Any other questions? A all in favor.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed .

(no response).

**Chairperson Handel:** Okay. Wong County item 423.

**SPEAKER:** Thank you, Madam Chair. This is a case involving a companion to our action dissolving Atkinson County and Jerry Metz. They went to trial (unclear) had a very substantial find levied against Mr. Metz. In fact, this is a case that received national attention. What happened in the situation is that there was a, across the board challenge to the qualifications of 45 individual voters because they had Hispanic sir names. The theory, I guess, under the challenge, was that if they had Hispanic sir names then they might not be United States citizens. And while I agree to citizenship is an important criteria and to be able to vote is not only a one, but one that we need to check. There is no basis just on one sir name to challenge someone for their improperly of voting. In fact, correctly so, and when our cooperation I would just say that DOJ certainly wasn't (unclear) they proceeded and filed a lawsuit against log county, and attaching are the materials judgment order and consent decree of resolving that matter against Long County. In this case the consent decree goes beyond anything that I think that we can hope to achieve in our case. These cases are in the nature of a quasi-punitive type cases. It could be double jeopardy issues with us continuing to prosecute a claim after having this type of resolution. Based on the DOJ resolution and the consent order that's been entered at the federal level, I believe that's a resolution of this matter, and therefore, further pending SEB matters should be dismissed.

**Chairperson Handel:** Questions colleagues?

**SPEAKER:** Mr. Ritter, are you confident that we could have been (unclear).

**SPEAKER:** Yes, I am.

**SPEAKER:** They had had extensive materials in terms of (unclear) sent up by the individual registrars, which is something that this board might have ordered, a fine, and basically what would amount to an extensive cease and desist reprimand type resolution against the respondents.

**SPEAKER:** Do you have (unclear).

**Mr. Ritter:** I have personally not spoken to (unclear) about this. I do not know the settlement of this either.

**SPEAKER:** (unclear).

**Mr. Ritter:** No I have not. They haven't. We spoke early in the beginning of this case about pursuing this case. We were happy to have their support in pursuing this case but since the DOJ was involved we have had no contact with them about it. With we are actually involved with them on other things. We are pending a case against them now.

**SPEAKER:** (unclear).

**Mr. Ritter:** Yes.

**SPEAKER:** I would make a motion to close this one .

**SPEAKER:** Second.

**Chairperson Handel:** A motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response).

**Chairperson Handel:** Mr. Ritter, one question on this, who in DOJ or the AG's office who is on top of the enforcement of some of the things that are in here, in the consent order that have actually been done.

**Mr. Ritter:** Truly speaking, that would be DOJ's responsibility, though, I'm happy to see that we can make an effort to try to monitor that that is done. And if it's not done, we might consider filing or proceeding with additional SEB action.

**Chairperson Handel:** I would think that at a minimum there should be some sort of reporting. I mean I know that this was entered some time ago but at the same time how do we know that they have done any of this and that brings me to my second question. I have a fill that Mr. Metz is following fairly significantly by this body and you don't have to tell me today but at the next meeting I sure would like an update on that. And if he has not paid it, what the body's option

would be .

**Mr. Ritter:** I will check on that. I believe that that case is in fact under appeal by him. It was upheld by the superior court and is now in a higher court. I will check that. And let me remind you that Mr. Metz was find a substantial amount for attempting to let people vote who are not citizens.

**Chairperson Handel:** Exactly.

**Mr. Ritter:** Any way if I may move on to the next one.

**Chairperson Handel:** Yes.

**Mr. Ritter:** Tab 18. This is also Pierce County. This had is also 2004 case. This case was held by us, given that the claims in the case involve political the advertisements that do not list the names of the three highest officials in the organization that ran the advertisements. There is in fact a federal case on point from the U.S. Supreme Court. I'm sorry I can't give you the name of that case as I sit here. There is one on point and we have long ago -- the statute in question, O.C.G.A. Section 21-2-415 to the extent it required the revealing of the names of the donor would be unconstitutional as a violation of the first amendment. I should note that for our office, the attorney general's office suggests that the State statute is unconstitutional and extraordinary. I don't know of another case where that's ever happened, though, I'm sure there is one. In any regard that statute has now been repealed by the general assembly and is no longer on the books. For the reason I will recommend that the case be closed.

**Chairperson Handel:** Is there a motion.

**SPEAKER:** So move.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response) all right.

**Mr. Ritter:** Thank you. The next matter was in your tab 19. Involved Allison Ballard as the respondent in the City of College Park. And this is a case that involves failure to remove stubs from the ballots and placing them in the ballot box and improperly transporting ballot box without being accompanied in violation of the Georgia statute. I should note regarding the second one that is a serious offense because that type of offense is the type of offense that invites fraud. That is the type of situation where someone could, in fact, try to modify what's this the ballot box by adding to it and so forth. No one is supposed to open it and change it but nonetheless, it's a serious offense. Ms. Almon took this to a hearing and Ms. Ballard did not appear. She was therefore found in default. And as you will see, an initial decision with

findings of facts was entered by the Administrative Law Judge, Amanda C. Backster. That becomes a recommendation to you. On page two of that order Mr. Backster suggests a \$200 fine a public reprimand, investigation and \$587 and a cease and desist order. (unclear) You are, as discussed in the past, free to modify that sanction and you can modify the findings of facts. If you disagree with us we have a record we can do that. Your choice here is (A) whether you want to adopt the initial decision as a final decision in full with those sanctions or modify it either as to the facts, or non-sanctions .

**SPEAKER:** I make a motion that we adopt the administrative law judge's decision and accept the ruling.

**Chairperson Handel:** Second?

**SPEAKER:** Okay. I would like to discuss that before we entertain a second. We don't have our absent colleague Mr. (Aaron) here who is the keeper of all knowledge about fines and sanctions and things of that nature. How about you Mr. Ritter, do you know of any precedent that exists with respect to the amount of fines for matters such as this.

**Mr. Ritter:** Well, first as the President let me point to the end of your materials today. Have you a lengthy table, but Ms. Almon has prepared outcomes of cases. Historically what we see is that the prior administration.

Chairperson Handel: Tab 27, I believe.

**Mr. Ritter:** This is correct yes. Fine much smaller amounts. I think a \$500 fine is consistent with the way the board has recently been issuing fines. I did not go through and find amounts of fines for those specific statutes that were find by her. But I will tell that you the taking of a ballot box is serious and not something that we have seen much of. So I don't have good precedent to go on that specific offense.

**SPEAKER:** In which case I second.

**SPEAKER:** (unclear) violations of two of the statutes. First of which are two significant. Transported (unclear).

**Chairperson Handel:** All righty. A motion and a second for a \$500 fine versus the 200 along with the 587.33 and the rest of the Judge's recommendation. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response. All right. Thank you.

**Mr. Ritter:** All right the next matter is at tab 20 respondent being Robert Yeomans and Mr. Stiff, 2005 election from City of Forest Park. Although I think it's clear about what happened in this case. Mr. Yeomans, who initially filed the complaint was discovered now taking a picture of the workings of a DRE machine while it was in process which is a violation of the statute. Nonetheless, Mr. Yeomans passed away. Therefore, this matter is now moot. We

have no surviving or state that we can do anything against. And therefore we recommend that it be dismissed.

**SPEAKER:** Motion.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and second all in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed (no response) All right next case.

**Mr. Ritter:** The next case involves Usher Jackson as the respondent and City of (unclear). This is in fact the case in which a consent order was previously presented to the Court and approved by it. But there were typographical errors in that order. The wrong order was included in the materials. I don't know whose responsibility that was. I (unclear) am happy to say it was our office's mistake. But in any regard the corrected order is now included. It is precisely what the Board previously approved, which was a reprimand cease and desist order. And that she would not assume elections positions in the future, which my understanding is, in fact, she had no intent to do that any way. And what had happened, just to remind you in this case was, a case where there was (unclear) place in the law voting district. She had received the correct map. It had a brief description. And she you allowed the voters to vote provisional ballots. Once discovered they were corrected. But I believe the order in this case essentially has already proven. The administrative changes once the chair (unclear) Ms. Almon did present that to you. And we present that to you.

**Chairperson Handel:** 2005, make sure you have those records straight.

**Mr. Ritter:** Yes.

**Chairperson Handel:** Is there a motion.

**SPEAKER:** Move.

**SPEAKER:** Second.

**Chairperson Handel:** All in favor.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response).

**Mr. Ritter:** The next case involved the City of Greenville. I will need some help on this one. With us is Mr. Tim Meeker. And he will be up here for the next two cases that both involve the City of Greenville. I will briefly tell you what it involves, and we have consent orders on the

case. This involves assistance to elderly voters and personally delivering a absentee ballots to City Hall in violation of several statutes. There was a consent order. And I'm taking the first case, which is a 2006 case. It says propose for a \$100 fine and a cease and desist order. The Board has previously considered this matter and recommended that cease and desist order be increased to \$200. And I believe that is correctly reflected on the consent order you have in your material. As you can see on page 3.

**Mr. Meeker:** My name is Ted meeker and I'm here on behalf of Mr. Robert Moran. He has signed the consent order in anticipation of submitting it to the Board this afternoon.

Chairperson Handel: Any questions or comments? Okay. I move we accept the revised consent order for the September 26, '07.

**SPEAKER:** Second.

Chairperson Handel: All in favor.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any owe opposed. (no response) let the record show that Mr. Worley (unclear) this case.

**Mr. Ritter:** Okay. Thank you. The medication matter which is at tab 23 also involved the City of Greenville. In this case we were talking about the November 06, 2007 the general election. And this involved complaints against not only the City itself but also Johnny Owens who was separately represented but is not represented by Mr. Meeker. (unclear). These are serious charges in this case. This case involved allowing individuals to vote who were residing outside of the city. Proper handling ballots. Improper certifying of ballots and illegal campaigning. In the consent orders that are in front of you I have one from the City of Greenville in which they agreed to pay a fine of \$500 and for training of Ms. Moreland (unclear) cease and desist. Owens resigned from her position. There is a proposed consent order in the material that I have. She is given numerous violations which is the same violation as the City. And has, essentially, a cease and desist reprimand against her, but there is no fine specifically entered against her. I do not have Ms. Moreland's consent order. I believe it's consistent with Ms. Owens's consent order.

**SPEAKER:** Again, Meeker on behalf of Ann Moreland and the City of Greenville. The Board will remember this matter. Unfortunately, it appeared on a number of agendas ultimately leading to it being referred to the attorney general's office as of January of this year. At that meeting I believe Ms. Almon heard the Board's direction. They were looking for a significant penalty. I'm not here to discourage my client in any way shape or form, but I believe all these violations could have been avoided simply by making sure that the people that who contacted the elections received the appropriate training. I represent other municipalities and I have never seen, and fortunately, have never had had to appear before this Board on behalf of other clients and I know the training that is provided by the Secretary of State's office is adequate. I also know that the City of Greenville takes this matter very seriously and is, in fact, pursuing and close to resolving a contract with Merriweather County for it to conduct this next election. The City has, of course, signed off on the consent order. Ms. Ann Moreland has also signed off. My understanding was that Ms. Owens had, but again that is based on communication between her attorney and

Ms. Almon which I was a party to.

**SPEAKER:** I believe Ms. Owens has signed off on the consent order. I do not have a copy of that signed consent order in my possession. The fine, as I understand it is being paid by the city rather than being paid by the individual.

**SPEAKER:** That's correct.

**Chairperson Handel:** Are you asking us to approve two with consent orders?

**SPEAKER:** Three the.

**Chairperson Handel:** Three.

**SPEAKER:** Mr. Meeker just brought by the Ann fuller consent order. That was the third. The first two are the City of Greenville and then we have got Ms. Owens's.

**SPEAKER:** I actually have additional copies of Ms. Moreland's if the Board would like copies.

**Chairperson Handel:** So for Ms. Owens it would be a penalty of 500 for each violation. And we have showing how many total.

**SPEAKER:** Let me be clear. I am presenting these but I have concerns about the amount of sanctions for each individual in this case. I will be quite candid with the Board. As I understand it. If individuals are not paying any sanctions and it's a total of \$500 sanctions being paid by the city.

**Chairperson Handel:** Okay. That's not what the City of Greenville's consent order says is. That's why I was confused.

**SPEAKER:** Page 4 of the consent order is the agreement.

**SPEAKER:** I have the correct version I received from Ms. Almon that I have signed off on, on behalf of the city says \$500.

**SPEAKER:** (unclear).

**Chairperson Handel:** This one is different from –

**SPEAKER:** Yes, it is. This is the City of Greenville consent order.

**SPEAKER:** Mr. Ritter what is your best judgment (unclear) normal fines (unclear).

**Mr. Ritter:** To be fair, given the lawyerly caveat I was beginning to say two things, first of all, I think that the status of the way the Board has been fining for the last two years is difficulty from the past. Also, Mr. Meeker negotiated this with Ms. Almon. I wasn't part of that. If you look at

page 2 and page 3 of the consent order, you will see a listing of violations which are, in my mind, very serious and numerous and that \$500 is too low based on the other sanctions that we have in similar cases.

**SPEAKER:** Mr. Meeker, (unclear) what is the 500 first stated by my count that's 10 (unclear).

**SPEAKER:** Again this is all subject to the Board's approval. What Ms. Al and I had talked about was a \$500 fine total for the States violations. In other words if I understood the language it was \$500 total that would include the officer.

**SPEAKER:** With all the violations it is certainly a applause building reading .

**SPEAKER:** Right. Ms. Almon and I also recognize that we are at the Board's discretion.

**Chairperson Handel:** Make sure that I'm reading this correctly. And it might be that we have to follow up on this. But what I recall from the case was that in the course of certifying the election, that during that, Ms. Moreland and I guess Ms. Owens went somewhere privately and changed and altered the consolidated return after the certification.

**SPEAKER:** Madam chair, if I may respond to that from reading the inspector general's report, in general that is correct. There was a count the night of the election. They then went to Ms. Owens's office the next morning and did somewhat of a recount and then changed the numbers. And I believe then looked and changed them a third time and ultimately never sent anything up to the Secretary of State's office of last year, which would have been two months after, two and a half months after election time.

**SPEAKER:** Did any of the recounts change the outcome of the election?

**SPEAKER:** No, sir. It narrowed the margin of victory, but it did not change the outcome.

**SPEAKER:** Was any litigation coming out of the results of the litigation .

**SPEAKER:** There was no litigation regarding the election itself or how it was conducted. There was litigation concerning the Mayor, the current Mayor's ability to run and whether he was a resident of Greenville.

**SPEAKER:** That would be a code violation.

**SPEAKER:** Yes, sir.

**SPEAKER:** And the Board, should you decide to sanction the individuals with a monetary civil penalty let me just note that Ms. Moreland's violation looks like it consists of participating in altering the votes cast (unclear) returns. Ms. Owens has a very lengthy list of violations that she was involved with. After the orders were there --

**Chairperson Handel:** My concern was getting into anybody going into a room and changing an

election outcome is where I have incredible difficulty. My recollection, colleagues is that we have been in a place of, apparently, standard of at least a hundred dollars per violation and these are fairly egregious, and I appreciate the intent to negotiate something but for the seriousness of these I think 500 is on the very low end, compared to what we have done with other jurisdictions around these types of violations and I do think it's important for us to be fair. (unclear) position?

**SPEAKER:** No, ma'am.

**Chairperson Handel:** Neither. Okay. 10 broad violations which given what we have done in the past would be at least at thousand. A hundred for each.

**SPEAKER:** Even if these are still egregious, I would still say 500. I would change page 4 consent order to \$500 had fine, state it violation, singular, for the State election code. I am prepared to make a motion unless there is other discussion.

**Chairperson Handel:** Motion do we have a second.

**SPEAKER:** Sorry I know there is a motion on the floor.

**Chairperson Handel:** Wait hold on just a moment.

**SPEAKER:** I had, like any other lawyer, to get certain authority to come out and actually sign and do a consent order that. Amount is in excess of what I have the authority to sign off as consenting to. And I don't want to get into a let's make a deal I understand the Board doesn't do that, but I would need the get my client to bless where I can sign this consent order .

**SPEAKER:** We have the power to sanction and fine.

**SPEAKER:** Yes. In this situation you would. And the reason for that is this is a consent order with enclosed stipulations of fact, which stipulated facts outside of this consent order .

**SPEAKER:** (unclear).

**SPEAKER:** If they are willing to stipulate the facts outside of the consent order then I think yes you can impose a fine, whether they consent to it or not. But the stipulation and the consent order, right now is by it's terms, it's not effective unless it's approved by the Board, so the stipulations would have to be separately approved by the Board.

**SPEAKER:** I would amend my motion then that we adopt the stipulated fact that appear on the proposed consent order. And then the order section amended it appears (unclear).

**SPEAKER:** I'm going to about (unclear) just as a general matter of law we know as it has come to us before, doesn't the respondent always have the ability to have a hearing?

**SPEAKER:** Let me answer these questions.

**SPEAKER:** Assuming he is a not stipulating to these facts --

**SPEAKER:** The answer is -- well, I'm going to give you the detailed answer in response to that. It's this. First of all, the respondent has a right to a hearing. Whether has hearing is in front of an ALJ or in front of the Board is another question. An ALJ would like to findings of facts and conclusion of law on the sanction. We still need (unclear) frankly my view. Case law. Conclusion of law in that order as long as they railroad supported by something of record. The law is for you to find. Having said that they are entitled a hearing. We have several different ways that we can present the consent order. One is like we had recently in a Fulton County matter. (skip in sound) we do not needed a hearing in that instance and I suggest that they have no right to a hearing in that instance. In an order like this.

**SPEAKER:** But they have to stipulate.

**SPEAKER:** They have to stipulate to the facts and that with be one when we have several stipulation of facts in a separate order. So we have got a stipulation of facts that's signed off on and that can be accepted by the board and then we can have a separate order if it were approved.

**SPEAKER:** What if they didn't stipulate to the fine.

**SPEAKER:** (unclear).

**SPEAKER:** There is another answer, but go ahead.

**SPEAKER:** In this case the stipulation of facts is embedded in the consent order, and arguably is one document. I don't know that the facts are in any way disputed in this case. And in fact there are three proposed consent orders. You can accept them and still change the City of Greenville one so you have got to facts and the sanctions. There are a lot of different ways that this can be spliced. What we suggest to our attorneys, in my section at least is that we try to take the most pragmatic approach to each case. We have a case where we think that it is straight forward approval of stipulated facts in the consent order and we include it in one document. But on a difficult case like the Fulton County case, I would recommend that they be provided. I do not think in this case it would be difficult to stipulate the facts. If that is the case. Then I (unclear) order and I think you can also find today that should they want to stipulate the facts then you state to them the order you would impose and it would be "X" amount. And we can go directly to a consent order signed by the Secretary of State that being the case. I don't think you can force them to stipulate the facts. The short answer to your question is no.

**Chairperson Handel:** (unclear).

**SPEAKER:** No. I'm about to say Mr. Meeker has done a fine job for his client so far. We have a history, when they ask for time as Mr. (unclear) has done. I think we personally grant those requests. So if you would like to come back and request an extension from us and approach your client about what your understand our position to be and whether or not you would be prepared to stipulate to the facts and so on, I certainly would vote for such a motion to give you time to do so. We don't want to put you in harm's way as counsel and we don't want to City in harm's way.

And if you bring back something that they weren't quite suspecting, I would certainly view that favorably if you think you need the time.

**SPEAKER:** Right. And understand I am limited by the authority that my client gives me and that's why I'm at right now. I'm not trying to show any disrespect towards the board in any way shape or form. I can tell you that -- could you give me one second. I do have authority up to \$200 per violation. I know that the Board's expressed so far an indication of \$500 that I will have to take back to my client and we would have to ask for more time or until the next Board meeting. I think I told the Board last time. I am just an appointed City attorney as of July of last year. Four of the five council members are new. I think everybody showed one view. It is probably consistent with the inspector general. People who ran the last election in a way were set up to fail. They weren't trained. And there were a lot of other circumstances. Moving forward, at least as long as I have represented, this just shouldn't go on. No one here disagrees. I can go up like I said to the \$200 per violation today I have that authority. If the Board would like to consider that or otherwise I would ask that it be continued until the next Board meeting and I will have time to talk to my client.

**SPEAKER:** Madam chair, I consider the precedent always send messages. I don't have an aspect tight for \$200 per violation. It might be wise to ask for some time, Mr. Meeker.

**SPEAKER:** That's what I ask then.

**Chairperson Handel:** Then do we have a motion to table it?

**SPEAKER:** That's fine.

**Chairperson Handel:** I move we table this until our next meeting. Until June 2nd. You will have enough time to talk to your clients and get us the word back.

**SPEAKER:** Actually we have a council meeting that night. I will do everything we can to have a specially called meeting.

**Chairperson Handel:** Okay and let us know. Just communicate to us.

**SPEAKER:** Motion to table it.

**SPEAKER:** Second.

**Chairperson Handel:** We have a motion and second to table it. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** And the Board moves it.

**SPEAKER:** And that was for all three matters that were pending out of that election, both Mrs. Moreland.

**Chairperson Handel:** We will take them all at the same time.

**Ms. LaGrua:** We need to renote his clients on this. He is accepting notice. We, obviously, did not send out notice on this matter.

**SPEAKER:** You don't have to send out a notice. I believe be glad to accept notice.

**Chairperson Handel:** All right next case.

**Mr. Ritter:** The next case is 2006 Margaret Harris. This involves an election in Coffee County where we had two respondents, Faye Stewart and Sharon Hicks. Ms. Stewart admits to assisting at least 8 voters in preparing their absentee ballot applications. And then signing the application indicating her assistance. She also assisted (unclear) not physically sick or illiterate and, therefore, was not authorized to assist anyone in those regards. Ms. Hicks assisted one voter and didn't sign the ballot application. We have two proposed consent orders for the Board. First. Ms. Stewart the consent order is for an \$800 fine and a cease and desist to reprimand. The one for Ms. Hicks, which (unclear) to assist one voter, a \$100 fine, a cease and desist of reprimand. I believe those are consistent with prior points.

**Chairperson Handel:** Motion colleagues?  
All right do we have a motion to accept both consent orders?

**SPEAKER:** So moved.

**Chairperson Handel:** For both.

**SPEAKER:** For both.

**Chairperson Handel:** A second.

**SPEAKER:** Second.

**Chairperson Handel:** A motion and a second. Any questions? Any questions? All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response). All right.

**Mr. Ritter:** Thank you. Looking to tab 25 which involves the elections of City of Gwinnett. This is 2007. And this is charges that were brought by share lot Murray against Roman Royal, election superintendent. And they actually involve, not so much the election, but conduct of the Board. Ms. Murray asserts that Mr. Royal is notifies registrars when meetings were held. Held meetings in which she was the only participant and discussed his compensation, failed to notify her that she had been dismissed from her position which she was, was not given adequate contact information and allegations a about a about cents of minutes for meetings. Ms. Almon looked at this and was not able to substantiate most of Ms. Murray's allegations. Nonetheless, none of

these allegations are allegations involving violations of state election code. These are primarily open meeting violation if they were proved. This Board does not have the authority to enforce open meetings acts. Therefore the recommendation is to close.

**SPEAKER:** So moved.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and a second. Any questions. All in favor, please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response. All right.

**Mr. Ritter:** Finally, this is another case where we have an incorrect consent order that had been provided to the Board. This case involved a respondent and a Scott Hobbs. He is represented by Judge (unclear) who I have spoken to and could not be here today. On two different elections on the birth certificates that Mr. Hobbs filled out, he indicated that he lived at a certain address 1523 Oak Moore place in Marietta, when actually he was residing at a temporary locations while he was gathering the money to purchase a house. Previously this board approved a consent order with a \$100 fine, cease and desist and reprimand. The wrong draft was provided and so a corrected draft is provided in this case. Again, the bottom line is to correctly state the facts as I have just stated them to you in this instance. A \$100 fine, as previously approved, cease and desisted and reprimand is what I recommend.

**SPEAKER:** (unclear) here.

**SPEAKER:** I think that by giving the time and difficulty coming here and paying a \$100 fine that had already been approved, he did not think that he (unclear).

**SPEAKER:** I personally consider it a motion of contempt.

**SPEAKER:** I will tell him sir.

**SPEAKER:** I move that we accept the recommendation and accept the consent order.

**SPEAKER:** Second.

**Chairperson Handel:** May I ask a question before we go. I noticed that this consent order is somewhat different from that with which we have had before, in which there is -- this is agreed to only as a compromise and without admitting to any of the alleged facts. That is rather unusual as to what we have done at least not in my time here. I don't recall that that --

**SPEAKER:** That is unusual. Thank you Mr. (unclear) puts it in writing. (unclear.)

**SPEAKER:** Reprimand.

**SPEAKER:** That's correct. And I do not recommend that language.

**SPEAKER:** I just want to make sure because in previous discussions the Board has been pretty adamant that when we have consent orders that there has to be an agreement and acknowledgment as to what they are consenting to.

**SPEAKER:** That is the very reason I would like to talk to (unclear). And I don't want to hold up the process.

**Chairperson Handel:** We have a motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** (unclear).

**Mr. Ritter:** Lastly. In your materials a most recent update of where the cases are that have been referred to our office in some detail those have been assigned to a number of different attorneys at this point. (unclear) absolutely current. Thank you, very much for your time.

**SPEAKER:** May I ask Mr. Ritter a question.

**Chairperson Handel:** Yeah, please. Go ahead.

**SPEAKER:** Do you think we are meeting frequently enough to continue to move these cases forward.

**Mr. Ritter:** Yes, I do.

**SPEAKER:** We are not battle necking .

**Mr. Ritter:** I don't think so. I think the bottle next, to the extent there is one, our office has a tremendous amount of work. Our staff and our section (unclear) five years. And our case load has almost doubled. But these cases take time.

**SPEAKER:** Thank you.

**Chairperson Handel:** All righty. Next item is legislative update.

**SPEAKER:** Madam chair, members the State election Board, we are probably the briefest legislative update in our ten your here. The only thing is since our last Board meeting (unclear) proof of citizenship and voter registration, legislation last Wednesday (unclear) comes along July 1st. Of course, we will start working on preparing guidance and direction for county and local elections officials for the implementation of the law. The law itself goes into the provisions of the law itself become affective January 1st, 2010.

**SPEAKER:** I have a question..

**Chairperson Handel:** Go right ahead.

**SPEAKER:** Mr. Sims I was very impressed with your marks on Ms. Somac who spoke earlier for the Coalition of the People's Agenda, if I wrote that down correctly, she asserted that she considered that statute to be unconstitutional. Do you have any reason to believe it can be challenged?

**SPEAKER:** I can't speak as to what individuals organizations may do in the way of bringing litigation. I will say simply however that this bill, and this now, law was models very closely after the Arizona statute, which has been attacked now for two election cycles. It had withstood state and federal litigation and scrutiny is in fact the law of the land code in Arizona. So there is legal precedent. There is practical precedent. The head of state implemented the law, so I suspect that if this matter does come to litigation, and we certainly hope it would not, that the State would be able to put forward a fairly compelling case.

**Chairperson Handel:** Anything else? All righty. Mr. Taylor do you have anything you need to enlighten us on today?

**Mr. Taylor:** Just a very you couple of things very quickly. The GEOA convention was held last week. I thought it was a very good meeting. There were a number of things discussed in a number of teaching elements. We went through the code. We talk to elections officials about how to actually research elections related legal precedent. We talked about preparing contingency plans, emergency plans for elections, for election day, and for the offices. We talked about reapportionment and that is turning out to be the (unclear) record reapportionment office spoke about that. The ethics commission was down there talking about candidate filings as well as we had some excellent presentations, best practices by various elections officials that were pretty incredible. They were some excellent ideas on using tools that are available to elections officials at almost no cost what with so ever, but they had a big impact to the voters in helping them on election day or early voting figure out where to be how they need to vote. And that is, in a nutshell. The other thing that I wanted to hand out to you is there are some possible rules for the State Election Board to consider, as well as just a brief rundown of the process. The reason I'm handing these to you today is for possible consideration at the next SEB meeting and if you have any suggestions or any comments, I'm happy to take them. And incorporate those into rules that may be proposed by the board, or considered by the Board at its next meeting. (unclear) the first page essentially breaks it down for your consideration.

**Chairperson Handel:** Basically, you want us to review which, at our June 2nd meeting, to tell you which of the rules we would like to go forward with. And that would give you the proper notification. The Board at that meeting would post any of these. If you have any suggestions or since that you see that you would like to get before today I would be more than happy to take them.

**Chairperson Handel:** Anything else? (no response) All right. Thank you. (unclear). That concludes our agenda. If there are no other items I will entertain a motion to adjourn.

**SPEAKER:** Motion to adjourn.

**SPEAKER:** Second.

**Chairperson Handel:** All in favor.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Thank you, very much, everyone.

(end of meeting).