

CHAIRPERSON: Representative Michael D'Agostino

REP. D'AGOSTINO (91ST): All right. We'll call the Committee on Contested Elections to order this Friday at 1:05. I apologize for the delay. Any remarks by members? Yeah? No? What did I forget? [Off record conversation]. Ah, thank you. Before we can start with the witnesses, we had asked for some documents yesterday, and Stratford town attorney does have some material for us. Attorney, if you could just identify yourself for the record and let us know what you brought today?

BRYAN LECLERC: Thank you. For the record, Bryan LeClerc, Berchem Moses, assistant town attorney for the town of Stratford. Yesterday, you had made a request for several categories of materials from the registrars of voters for the town of Stratford. This morning, I have with me three items. The first is the ballot order worksheet, which designates the number of ballots that were ordered for the different districts within the town of Stratford for the election November 2018. The second is the hourly count sheet compiled by the registrars when the different polling places phoned in the townhall every hour or so with numbers. The third is -- category are four moderator diaries, which have been taken from the -- I'm sorry. Seven moderator diaries that have been taken from the various districts where there was voting for the 120th state rep district. So, if I may approach the clerk with those?

REP. D'AGOSTINO (91ST): Thank you, Attorney LeClerc. That's great. It's -- you can give them to our clerk, and we'll take those originals, make

some copies, and then we're gonna hold onto them for the moment, I think, until the committee completes its work, and then we'll make sure everything that we took yesterday and today gets back to their appropriate custodians.

BRYAN LECLERC: Thank you.

REP. D'AGOSTINO (91ST): Thank you. The first witness today is Elizabeth Boda, head moderator for election day in Stratford. And, while you're standing, can I get you to raise your right hand? There you go. Do you swear or affirm as the case may be that the information you will provide to this committee will be the truth, the whole truth, and nothing but the truth, so help you God under penalty of perjury? Thank you. Please take a seat. Thank you for being with us, Ms. Boda. If you could, just state your full name for the record and your position at the town of Stratford?

ELIZABETH BODA: Elizabeth Boda, and I'm head moderator for the town of Stratford.

REP. D'AGOSTINO (91ST): Thank you. How long have you been the head moderator for Stratford?

ELIZABETH BODA: Probably about 20 years.

REP. D'AGOSTINO (91ST): Is that a -- an appointed position, an elected position? How is that chosen?

ELIZABETH BODA: Appointed.

REP. D'AGOSTINO (91ST): By the mayor?

ELIZABETH BODA: No, by the registrar's office.

REP. D'AGOSTINO (91ST): So, both the republican and democratic registrar have to agree to appoint you as the head moderator for each election?

ELIZABETH BODA: I guess that's how it happens. I don't really know.

REP. D'AGOSTINO (91ST): Do you get -- do you get a letter or a notice notifying you that you've been appointed, or it's just sort of -- it's been that way for a while?

ELIZABETH BODA: No. I just get a notice when there's gonna be an election.

REP. D'AGOSTINO (91ST): And, so you've handled everything from the general elections to the municipal elections to the special elections?

ELIZABETH BODA: I'm not sure I quite understand it?

REP. D'AGOSTINO (91ST): Are you the head moderator for all elections in Stratford --

ELIZABETH BODA: Yes.

REP. D'AGOSTINO (91ST): Municipal and state?

ELIZABETH BODA: Yes.

REP. D'AGOSTINO (91ST): All right. What does the head moderator do?

ELIZABETH BODA: Well, I'm really not on the scene until the night of the election. I go down to townhall at 7:30, and as you know, the polls close at 8 o'clock, and then after that the moderators from the various locations come back and drop off the tapes, and I work from the tapes. There's -- we have a team. There's four of us. Do you want me to continue?

REP. D'AGOSTINO (91ST): Please.

ELIZABETH BODA: Okay. The team is made up of the two registrars, myself, and a deputy. One registrar

has the tape and reads out very clearly the location, the candidate, and the number of votes. I am standing over his shoulder, and I can verify that I see exactly what he reads off. The other registrar is two his left and he takes that number and he puts it into the computer. He posts it in other words. Over his shoulder is [clearing throat] a deputy who can see it as well, so we work as a team. We're only focusing on that one person at that point, and we all know what that total vote is and we see it posted.

REP. D'AGOSTINO (91ST): Are the assistant moderators at the different polling places, do you appoint them or are they appointed by the registrars?

ELIZABETH BODA: They're appointed by the registrars.

REP. D'AGOSTINO (91ST): So, the tapes come into -- you -- you are at townhall when this happens?

ELIZABETH BODA: Yes.

REP. D'AGOSTINO (91ST): Who's delivering the tapes?

ELIZABETH BODA: The individual moderators from the polling places. They have to drop them off with us.

REP. D'AGOSTINO (91ST): And, when you said that the materials -- the information is input into a system, that's on a computer screen?

ELIZABETH BODA: Yes.

REP. D'AGOSTINO (91ST): What is your understanding of what that system is?

ELIZABETH BODA: Well, they're posted there and then all tallied, and then that's run off afterwards, and I sign a printed out -- print out copy.

REP. D'AGOSTINO (91ST): Is that system, into which the information is being inputted, is that a software program that the town maintains, secretary of state maintains? If you don't know, you don't know.

ELIZABETH BODA: I don't know.

REP. D'AGOSTINO (91ST): Oh. But it allows for that data that's being reported and you're overseeing to be input into some sort of program that then produces a written report that you sign?

ELIZABETH BODA: Right.

REP. D'AGOSTINO (91ST): And is -- I've got on the screen -- Bonnie, can you scroll up to the top of that and get it and just blow up the top under secretary of state? Is this what you're talking about? The head moderator return format? Maybe scroll down?

ELIZABETH BODA: Well, it's close to something similar like that. I don't think it's that very one.

REP. D'AGOSTINO (91ST): The actual report that is generated, what does it look like?

ELIZABETH BODA: I really can't describe all it to you. I really can't. I see -- I just take notice that the figure is posted to it.

REP. D'AGOSTINO (91ST): Well, let me back up.

ELIZABETH BODA: Which --

REP. D'AGOSTINO (91ST): So, all right, so -- so information comes in from each polling place?

ELIZABETH BODA: Right.

REP. D'AGOSTINO (91ST): From the tapes?

ELIZABETH BODA: On the tape. We only work with the tape.

REP. D'AGOSTINO (91ST): You only work with the tape?

ELIZABETH BODA: Uh-huh.

REP. D'AGOSTINO (91ST): So you're only interested in the -- in getting from the tape the information about how voted?

ELIZABETH BODA: Right.

REP. D'AGOSTINO (91ST): At each polling place? That is read off by an assistant moderator? By assistant registrar?

ELIZABETH BODA: No, read off by registrar.

REP. D'AGOSTINO (91ST): By a registrar. You are --

ELIZABETH BODA: I stand behind him and I verify that same number.

REP. D'AGOSTINO (91ST): So, he says 1499, and you say, I agree 1499? Somebody inputs that number into --

ELIZABETH BODA: The other registrar posts it.

REP. D'AGOSTINO (91ST): Posts them -- when you say post, it means put it into the system?

ELIZABETH BODA: Right, and there is a deputy behind him also looking at it. I can -- I can stand --

from where I stand, I can see what actually goes on the machine.

REP. D'AGOSTINO (91ST): Oh, okay.

ELIZABETH BODA: And we just focus one person at a time.

REP. D'AGOSTINO (91ST): All right, so you were looking at the tape, the number, and making sure that that number is what's being input into the computer screen?

ELIZABETH BODA: Correct.

REP. D'AGOSTINO (91ST): And that -- when you're done, that generates a report?

ELIZABETH BODA: When we're all done.

REP. D'AGOSTINO (91ST): It generates a report for the town?

ELIZABETH BODA: Right.

REP. D'AGOSTINO (91ST): And you sign that report?

ELIZABETH BODA: Right.

REP. D'AGOSTINO (91ST): And what is your understanding of what that report is called? Is it the head moderator return?

ELIZABETH BODA: I don't know what the title is.

REP. D'AGOSTINO (91ST): But you sign it?

ELIZABETH BODA: I sign it on there.

REP. D'AGOSTINO (91ST): Does anybody sign off on it?

ELIZABETH BODA: No.

REP. D'AGOSTINO (91ST): Does that -- is the -- is the figure that's input in from each tape just the actual people -- the people who voted on site at each polling place that day or does that also include absentees?

ELIZABETH BODA: It includes the absentee.

REP. D'AGOSTINO (91ST): On the tape?

ELIZABETH BODA: Oh, on the tape -- no, on the tape, no.

REP. D'AGOSTINO (91ST): So are you -- so when you're doing this process, are you also inputting absentee numbers?

ELIZABETH BODA: That's prepared separately, I believe.

REP. D'AGOSTINO (91ST): Are you overseeing the inputting --

ELIZABETH BODA: No.

REP. D'AGOSTINO (91ST): Of that data?

ELIZABETH BODA: No.

REP. D'AGOSTINO (91ST): You're not?

ELIZABETH BODA: No.

REP. D'AGOSTINO (91ST): How is -- what's your understanding of how that is input into this system?

ELIZABETH BODA: There's a separate group that does the absentee.

REP. D'AGOSTINO (91ST): And you are not the head moderator?

ELIZABETH BODA: No.

REP. D'AGOSTINO (91ST): Okay. So you're -- you're just the head moderator for the tape information, who voted at the polling --

ELIZABETH BODA: Correct.

REP. D'AGOSTINO (91ST): Place? Okay. Other question? We got a couple more? So -- so just to backtrack just a second on the absentee ballot, and maybe you're not the right person to ask, but I'll ask you anyway since you're the head moderator. So somebody tabulates the absentee ballots in the same way that they're tab -- you know, in person voting is tabulated at a polling site, right? Meaning at some point somebody feeds the absentee ballots into an optical scanner --

ELIZABETH BODA: Yes.

REP. D'AGOSTINO (91ST): And that generates a tape, and you don't -- and I'm --

ELIZABETH BODA: [Crosstalk].

REP. D'AGOSTINO (91ST): I'm curious to know if you get that?

ELIZABETH BODA: No.

REP. D'AGOSTINO (91ST): If you get that tape?

ELIZABETH BODA: No, I do not.

REP. D'AGOSTINO (91ST): You don't get that tape? Okay. In terms of this -- the form that you sign at the end of the evening and -- and I don't know if this -- or maybe the at -- maybe the registrars can answer -- who do you -- where did that form go? Who possess that form after you sign it? Where is that record retained?

ELIZABETH BODA: What?

REP. D'AGOSTINO (91ST): Is that retained with the town? Or does that eventually get delivered to the secretary of the state? Do you have -- do you know?

ELIZABETH BODA: I can't really -- I don't really know.

REP. D'AGOSTINO (91ST): Yeah? I -- I mean I guess I -- I -- I -- well, I'll ask somebody because I think we should get a copy of that report. The signed report. The original if that's -- if we can figure out who retains that document, we'd like to see that. Yeah, I'm not -- I -- I -- I'm not sure if we have it or not, so if you could check for us, I -- I'd -- [Off record conversation]. Yeah, I mean I'm looking again. I'm looking at this. This does not look familiar to you, ma'am? This head moderator return format? It says head moderator on it? This does not look --

ELIZABETH BODA: Yes, it's --

REP. D'AGOSTINO (91ST): Familiar to you?

ELIZABETH BODA: Somewhat familiar, but I am standing a distance from it. I just --

REP. D'AGOSTINO (91ST): Yeah.

ELIZABETH BODA: I just concentrate on the figures as opposed to --

REP. D'AGOSTINO (91ST): And the -- the --

ELIZABETH BODA: Its name.

REP. D'AGOSTINO (91ST): The final report that you sign is it -- is it --

ELIZABETH BODA: Yes.

REP. D'AGOSTINO (91ST): Big?

ELIZABETH BODA: Yes.

REP. D'AGOSTINO (91ST): It is? Okay. And like for example, this document here if you -- if you scroll and if you try to blow up the shaded column -- excuse me, row on the top -- there you go. Just grab -- yeah, just scroll down a little bit and get the -- so if you go over to the left a little bit. All right, so we see under Mr. Young's name, tabulator, write in hand total. Are -- are you -- do you oversee the inputting of -- of all that data or just the -- just the tabulator number?

ELIZABETH BODA: Just the tab -- yeah, just the tape.

REP. D'AGOSTINO (91ST): Just the tape?

ELIZABETH BODA: Uh-huh.

REP. D'AGOSTINO (91ST): So nobody reports to you as head moderator the hand -- the write-in totals?

ELIZABETH BODA: That's correct.

REP. D'AGOSTINO (91ST): Nobody reports to you the absentee totals?

ELIZABETH BODA: No.

REP. D'AGOSTINO (91ST): Okay. This is done separately?

ELIZABETH BODA: Yes.

REP. D'AGOSTINO (91ST): By the registrars?

ELIZABETH BODA: Yes.

REP. D'AGOSTINO (91ST): Yeah. Go ahead.

REP. HADDAD (54TH): Just one point of clarification. So on election day, you arrived at -- do you do this work at townhall in Stratford?

ELIZABETH BODA: Yes, at the townhall.

REP. HADDAD (54TH): And you arrive there at 7:30?

ELIZABETH BODA: P.M.

REP. HADDAD (54TH): P.M.? Right. And then your work is completed around about when?

ELIZABETH BODA: Oh, it depends. Maybe an hour and a half, two hours. It depends.

REP. HADDAD (54TH): Right.

ELIZABETH BODA: We work as a team. It goes like clockwork.

REP. HADDAD (54TH): Sure. And -- and -- and were you involved at all in the recanvas?

ELIZABETH BODA: No.

REP. HADDAD (54TH): Okay. Thank you.

REP. D'AGOSTINO (91ST): And just to be clear, do you have any role in counting names off of the checklists that are -- that are -- do you have copies of the checklists? The voter checklists at each polling site, are those given to you at all?

ELIZABETH BODA: No. I don't --

REP. D'AGOSTINO (91ST): Do you have any role in --

ELIZABETH BODA: No.

REP. D'AGOSTINO (91ST): Overseeing those?

ELIZABETH BODA: No. Only the tape.

REP. D'AGOSTINO (91ST): That's -- that's fine. Thank you very much. Our next witness is Mr. Krekoska, the head moderator for the recanvas. Would you raise your right hand, sir? Do you swear or affirm as the case may be that the information you will provide to this committee will be the truth, the whole truth, and nothing but the truth, so help you God under penalty of perjury?

JOHN KREKOSKA: I do.

REP. D'AGOSTINO (91ST): Thank you. Please have a seat, and please state your name and your position.

JOHN KREKOSKA: John E. Krekoska, and I am a moderator at Second Hill Lane School.

REP. D'AGOSTINO (91ST): What was the school again?

JOHN KREKOSKA: It's -- I'm a moderator at Second Hill Lane. There's like ten districts in Stratford, and I am the moderator there probably the last three to four years.

REP. D'AGOSTINO (91ST): And that's for the general election?

JOHN KREKOSKA: That's correct.

REP. D'AGOSTINO (91ST): You've handled that particular polling place?

JOHN KREKOSKA: Yes.

REP. D'AGOSTINO (91ST): All right. And how were you appointed to that position?

JOHN KREKOSKA: Through the years, I started in various positions and assistant registrar checker and everything, and then the registrars from the

town of Stratford asked if I would take that position.

REP. D'AGOSTINO (91ST): You were an assistant registrar at one point in time?

JOHN KREKOSKA: Yes.

REP. D'AGOSTINO (91ST): Republican or democrat?

JOHN KREKOSKA: Republican.

REP. D'AGOSTINO (91ST): I assume you're a registered republican?

JOHN KREKOSKA: Yes.

REP. D'AGOSTINO (91ST): In addition to being the moderator at the Second Hill Lane location, did you also serve as the head moderator for the recanvas that took place in the 120th House District?

JOHN KREKOSKA: I did serve that, yes.

REP. D'AGOSTINO (91ST): How did you get that appointment?

JOHN KREKOSKA: I was asked to be the head moderator for the recanvas.

REP. D'AGOSTINO (91ST): And that is by the registrars?

JOHN KREKOSKA: Yes.

REP. D'AGOSTINO (91ST): Was there any [clearing throat] -- excuse me -- training or other sort of information provided to you with respect to that role?

JOHN KREKOSKA: No. I did this one before when there was a contested election in one of the districts, and I did a recount on it.

REP. D'AGOSTINO (91ST): Was that municipal or state?

JOHN KREKOSKA: Munic -- municipal, yes.

REP. D'AGOSTINO (91ST): So you're sort of the troubleshooter?

JOHN KREKOSKA: No. I -- I'm --

REP. D'AGOSTINO (91ST): [Laughing].

JOHN KREKOSKA: No. There's other men and women that do that. It's -- I did that twice.

REP. D'AGOSTINO (91ST): Counting the 120th?

JOHN KREKOSKA: Yes. Yep.

REP. D'AGOSTINO (91ST): So when you did it that prior time, was there any certain training or instruction then?

JOHN KREKOSKA: No. There wasn't because basically it was the same type of situation as you would do at the polling place where we took the ballots, we looked at every ballot to make sure it was the correct ballot for that location, for that office, and then we looked at every ballot, and for the voter intent, if there was some that could be questionable, and then we took all the ballots and put them through the tabulator.

REP. D'AGOSTINO (91ST): This -- so where did this take place? The recanvas of the 120th?

JOHN KREKOSKA: That took place in Stratford Townhall.

REP. D'AGOSTINO (91ST): Now, you said, we. Who was the team that was with you on the recanvas?

JOHN KREKOSKA: There were two -- there was eight different districts.

BRYAN LECLERC: Just to be clear. Are you talking about the election in question, or --

REP. D'AGOSTINO (91ST): Just the 120th. The one -- yeah, the --

BRYAN LECLERC: The current election.

REP. D'AGOSTINO (91ST): The current election in question, yes.

JOHN KREKOSKA: Oh, okay. I was, again, the head moderator for the recanvass in townhall, and there were eight districts that had to be recanvassed -- recounted, and there was two people for each location that looked at the ballots to make sure they were the correct ballots, and then looked for voter intent, and being that those locations had two different elections, the 120th and 122nd, they had to be separated because we were only concerned about the 120th, and that's how that was handled. And once they were separated, then we took all of those ballots, and we had separate tabulators set up, and it took a two-day period to accomplish this, and we put every single ballot through the tabulator and came out with a tape, and it announced the results.

REP. D'AGOSTINO (91ST): And, were there instances where putting it -- the ballot through the machine didn't resolve a particular question with respect to the ballot?

JOHN KREKOSKA: To my recollection, every ballot that went through that machine, none were rejected.

REP. D'AGOSTINO (91ST): So as I read the results of the recanvass -- for example, in the original count,

there might have been, I think, the number that is coming to mind is 27 at the -- at the final location of unknown votes for Mr. Feehan, and then in the recanvas those still stayed for Mr. Feehan, but they were switched to either independent or republican notes. Do I have something like that right?

REP. D'AGOSTINO (91ST): That part I'm not aware of.

JOHN KREKOSKA: But is that -- what I'm describing there, is that sort of the result of the process that -- that votes can change from either being unknown or not assigned to, then assigned?

REP. D'AGOSTINO (91ST): That could be, yeah. Now, that's the process you've just described is for the -- well, let me -- let me focus in on the location. For the recanvas at the Bunnell District, were you aware of any issue heading into that with respect to the ballots and the number of ballots that had been assigned that day?

JOHN KREKOSKA: There -- there was other than what actually happened there, which everybody knows about, I mean there was no other problems that we had when we did the recount.

REP. D'AGOSTINO (91ST): But you knew of that issue --

JOHN KREKOSKA: Yes, I did.

REP. D'AGOSTINO (91ST): When you -- you did?

JOHN KREKOSKA: Yes.

REP. D'AGOSTINO (91ST): Okay. What were you told about that issue heading into the recount?

JOHN KREKOSKA: I -- I was told that there was I think it was approximately 76 ballots that were handed out incorrectly for the wrong district.

REP. D'AGOSTINO (91ST): Do you know who told you that? Do you remember who told you that?

JOHN KREKOSKA: That -- I -- that was from the registrars.

REP. D'AGOSTINO (91ST): Both or one?

JOHN KREKOSKA: I was -- by the republican registrar.

REP. D'AGOSTINO (91ST): Aside from that information, no other information given about that particular issue to you?

JOHN KREKOSKA: That's correct. None.

REP. D'AGOSTINO (91ST): When you did the recanvas at -- at Bunnell, any issues that you recall or anything with respect to the recanvas of the vote there?

JOHN KREKOSKA: No. There were none. No.

REP. D'AGOSTINO (91ST): The process you described about feeding the ballots through the machines; does that encompass absentees as well or is there a different process for absentees?

JOHN KREKOSKA: No. That's a different process. Those are all hand counted. The only ones that go in through the tabulators are the actual ballots that the voters fill out.

REP. D'AGOSTINO (91ST): And describe the -- did you ever see the absentee recanvas?

JOHN KREKOSKA: I did. I didn't actually look at them, but there was two gentleman that actually did that recount.

REP. D'AGOSTINO (91ST): And who were they?

JOHN KREKOSKA: Ben Porto [phonetic], and I may have this wrong, but I think Frank Bevlokwia [phonetic], but I'm not sure of that.

REP. D'AGOSTINO (91ST): Belevokwa [phonetic]?

JOHN KREKOSKA: Yes.

REP. D'AGOSTINO (91ST): And republican and democrat?

JOHN KREKOSKA: Yes.

REP. D'AGOSTINO (91ST): And did they -- what was the process in terms of them reporting their results to you?

JOHN KREKOSKA: Well, they went through every absentee ballot and verified that it was filled out correctly, and then they tallied them, and those votes were announced.

REP. D'AGOSTINO (91ST): Did they report them to you, and you announced them?

JOHN KREKOSKA: They -- they announced them.

REP. D'AGOSTINO (91ST): They announced those? Do you sign off on that result?

JOHN KREKOSKA: Yes, I did. Yes.

REP. D'AGOSTINO (91ST): But you didn't review any of their results?

JOHN KREKOSKA: There was nothing that attained -- that I could recall that attained a question on any of those.

REP. D'AGOSTINO (91ST): We -- we had some questions yesterday about -- can you bring up the recanvas? The absentee, the first page. We did have some questions yesterday about the recanvas with respect to the absentees because it looked like there were several that -- I think it's a different document. The -- it's the second attachment to that email that had the -- that one. It looked like -- and we'll bring it up here -- that on the absentee side of things there were -- and I can't tell if it is five or two votes that were -- this is the page, yeah. If you'd scroll up to the top? Let me see the top of the page. This form look familiar?

JOHN KREKOSKA: Yes, I did sign that. I did sign that form.

REP. D'AGOSTINO (91ST): Okay.

JOHN KREKOSKA: Yep.

REP. D'AGOSTINO (91ST): And -- and there's other pages on there from each district. This just happens to be the first page that if you go to the top I think it says absentee ballots. Do you see that, sir?

JOHN KREKOSKA: Yes.

REP. D'AGOSTINO (91ST): So we had some questions yesterday where, for example, on the first row there it says number of ballots received 520, counted 515, rejected 5, and if you scroll down a little bit office, and then -- and Mr. Young's total there it looks like his total went from totals before recount

262 to a total recanvas votes 260. And I think the first question I just had for you is -- is can you explain the -- the difference there? What is -- what is that first row I read mean where it says received 520, counted 515, rejected 5? Does that mean that 5 absentee ballots were rejected?

JOHN KREKOSKA: I -- I believe so, but again, I was not in the process of looking at those. Those two gentlemen were looking at those ballots, and they were the ones that came up with those counts.

REP. D'AGOSTINO (91ST): Do you recall being -- being advised as to what was happening with those? As to why those counts were changing?

JOHN KREKOSKA: No -- no, I was not.

REP. D'AGOSTINO (91ST): Do you keep -- do you keep any kind of log of your work on every recanvas? A written log?

JOHN KREKOSKA: Right. I did not have a log. I mean there wasn't really any issue to report that --

REP. D'AGOSTINO (91ST): You don't have any recollection of why?

JOHN KREKOSKA: No, sir, I do not.

REP. HADDAD (54TH): Yeah. I -- I mean -- I guess just for the record, I mean I suppose it would be nice to have a complete list of all of the folks who were working at the recanvas, and I don't know if you can provide that or you know, if it's already -- I'm not sure if we asked that of the registrar voters yesterday, but that would be helpful to see. And -- and I'll rely on per-, perhaps some of my fellow committee members on this a little bit because my recollection yesterday, we were talking

to Mr. Proto, was that he said that he was not a person responsible for counting the absentee ballots, that he was watching that process, but was not a person actually counting the ballots, and I'm -- I'm just having trouble reconciling that with -- with what you just said about -- about -- about Mr. Proto and Mr. Belevokwa [phonetic] being the people actually counting the ballots. Is -- I mean is -- am I -- am I missing something because I want to make sure I understand your -- your -- your testimony.

JOHN KREKOSKA: Right. Well --

REP. HADDAD (54TH): The two people counting the absentee ballots.

JOHN KREKOSKA: Well, they reviewed those ballots and came up with those figures that --

REP. HADDAD (54TH): Yeah.

JOHN KREKOSKA: You're seeing there on the form, and then I signed off on them.

REP. HADDAD (54TH): Right, and I guess like I think that there might be as many as four people or -- involved. I -- I -- I guess I'm confused about who is actually physically looking at the absentee ballots, and so I think if we get the list of the people assigned to each polling district that might be helpful in helping me reconcile, you know, what people's roles were on election day. And again, I guess -- I mean you weren't observing the absentee ballot process, but we also heard yesterday that there was some question about -- if I understand it -- a couple of overseas ballots. Do you know if overseas ballots or military ballots are included in what we call the absentee ballot count?

JOHN KREKOSKA: I do not know that, sir.

REP. HADDAD (54TH): Were -- were there any issues that you were aware of --

JOHN KREKOSKA: [Crosstalk].

REP. HADDAD (54TH): During the recanvas about the validity of any absentee ballots or military ballots or overseas ballots?

JOHN KREKOSKA: I don't --

REP. HADDAD (54TH): Because we heard testimony yesterday that there was some question about whether or not they should be counting some and somebody wanted to go check the registry voters first to make sure that they were validly casts ballots and --

JOHN KREKOSKA: I am not aware of that.

REP. HADDAD (54TH): Okay. Thank you.

REP. D'AGOSTINO (91ST): Do you know where the ballots are? The absentee ballots that were recounted in the -- in the recanvas?

JOHN KREKOSKA: Well, they were in the property of the two registrars.

REP. D'AGOSTINO (91ST): And as far as you know, they still are?

JOHN KREKOSKA: As far as I know, yes.

REP. D'AGOSTINO (91ST): Were the two registrars there for the recanvas?

JOHN KREKOSKA: Yes, they were.

REP. D'AGOSTINO (91ST): Do you know were they there for the -- where was the absentee recanvas taking place?

JOHN KREKOSKA: That was taking place in the townhall chambers.

REP. D'AGOSTINO (91ST): Same room as the --

JOHN KREKOSKA: The same room.

REP. D'AGOSTINO (91ST): Same time?

JOHN KREKOSKA: Yes, it was.

REP. D'AGOSTINO (91ST): Okay. And to your recollection, it was Mr. Proto and Mr. Belevokwa [phonetic], if we got the name right, who were overseeing that process?

JOHN KREKOSKA: Yes. They were doing the recount of the absentee ballots.

REP. D'AGOSTINO (91ST): Do you recall if there were any other people involved in that recount? People working for them actually counting ballots or is it just the two of them that you recall?

JOHN KREKOSKA: To my recollection, it was just the two of them.

REP. D'AGOSTINO (91ST): And you don't recall anybody coming to you with any issues with respect to the recanvas of the absentees?

JOHN KREKOSKA: No. None.

REP. D'AGOSTINO (91ST): So when this is presented to you to sign, did you have any questions about five were rejected?

JOHN KREKOSKA: No, I did not.

REP. D'AGOSTINO (91ST): Why not?

JOHN KREKOSKA: They -- they didn't say anything about them that there was a problem, but they were rejected for whatever reason they came up with.

REP. D'AGOSTINO (91ST): Do you recall any other votes being rejected as part of the recanvas?

JOHN KREKOSKA: I am not aware of any other ones.

REP. D'AGOSTINO (91ST): It strikes me just as a fairly significant event to reject ballots. I just -- I mean I take you at your word you didn't have any questions on it. You don't recall anybody else talking about why ballots were rejected?

JOHN KREKOSKA: No, sir.

REP. D'AGOSTINO (91ST): I'd ask the township if we could further the representative without question. If we could just confirm the names of the people involved in the recanvas, in particular from at least the two of us our perspective, the individuals involved with the absentee recanvas that we heard from Mr. Proto who is a democratic -- whoever the democratic person was.

BRYAN LECLERC: All right. So you -- do you want all of the workers involved in the recanvas of -- of both the machine as well as the AB ballots?

REP. D'AGOSTINO (91ST): Please. Thank you. After you signed off on this, has anybody raised any questions or issues with it as far as you know?

JOHN KREKOSKA: As far as I know, no.

REP. D'AGOSTINO (91ST): Okay. Have you heard anything else about the ballot issue at the 120th? At the Bunnell location?

JOHN KREKOSKA: I have not.

REP. HADDAD (54TH): Slightly different topic. I'm familiar with the geography of Stratford. The [laughing] -- the polling site you are moderator on election day -- tell me -- tell me the name of the polling site again?

JOHN KREKOSKA: It was Second Hill Lane School.

REP. HADDAD (54TH): Second Hill Lane School, and do you -- do you know what number that district is noted by? Denoted by?

JOHN KREKOSKA: That's district 10.

REP. HADDAD (54TH): Ten. Is -- and is -- are voters in that precinct or district voting in the 120th race?

JOHN KREKOSKA: Yeah.

REP. HADDAD (54TH): Or is that a different?

JOHN KREKOSKA: No, it was the 120th --

REP. HADDAD (54TH): It was --

JOHN KREKOSKA: It was just the one district there.

REP. HADDAD (54TH): Sure.

JOHN KREKOSKA: For voting.

REP. HADDAD (54TH): So everybody voted at Second Hill Lane School voted for people in the 120th. There weren't multiple ballots?

JOHN KREKOSKA: That's correct. None.

REP. HADDAD (54TH): Did -- we had to ask for the moderator log, so I don't know if your moderate log is the one that was provided, but were there any -- were there any issues that you saw on election day

at, you know, during the course of the day that you think that we should be aware of --

JOHN KREKOSKA: No.

REP. HADDAD (54TH): In terms of people having --

JOHN KREKOSKA: It went very -- it went very smoothly.

REP. HADDAD (54TH): Yep. Is -- are there any notes in your moderator log?

JOHN KREKOSKA: Yes, there is.

REP. HADDAD (54TH): Yeah, what -- what were those notes? What were the nature of those notes?

JOHN KREKOSKA: I would have to see that again, so.

REP. HADDAD (54TH): Yeah, okay.

JOHN KREKOSKA: You know.

REP. HADDAD (54TH): But -- but you -- but you would say that the -- that by in large in the precinct that you oversaw, there's no reason to doubt the reliability of the integrity of those election results?

JOHN KREKOSKA: Absolutely. There was no problems with any of the ballots at all.

REP. HADDAD (54TH): Yeah. Thank you.

JOHN KREKOSKA: You're welcome.

REP. PERILLO (113TH): Thanks very much, so -- and thank you for being here just to clarify. So you mentioned that there were two individuals recanvassing the absentee ballots; is that correct?

JOHN KREKOSKA: Yes.

REP. PERILLO (113TH): One of them was a democrat and one of them was a republican?

JOHN KREKOSKA: To my knowledge, yes.

REP. PERILLO (113TH): Did [clearing throat] -- excuse me. Did either of them report any concerns to you about the absentee ballots, any irregularities in the absentee ballots? They counted them together?

JOHN KREKOSKA: Yes, they did.

REP. PERILLO (113TH): Okay. So representatives from both parties were there?

JOHN KREKOSKA: That's correct.

REP. PERILLO (113TH): And again, neither of them or anyone else for that matter raised any concerns?

JOHN KREKOSKA: That's correct.

REP. PERILLO (113TH): Thank you.

REP. D'AGOSTINO (91ST): Thank you very much.

JOHN KREKOSKA: You're welcome.

REP. D'AGOSTINO (91ST): Next witness is Mr. Collier, Joseph Collier, democratic poll moderator for Bunnell High School. Raise your right hand for me? Thank you. Do you swear or affirm as the case may be that the information you will provide to this committee will be the truth, the whole truth, and nothing but the truth, so help you God under penalty of perjury?

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): Thank you. Have a seat please. Could you just -- I said your name and

position, but I'd like to hear it from you, your name and position, please?

JOSEPH COLLIER: Joseph Collier, assistant registrar, democrat.

REP. D'AGOSTINO (91ST): You're assistant registrar?

JOSEPH COLLIER: For the -- at the polling place.

REP. D'AGOSTINO (91ST): At the polling place?

JOSEPH COLLIER: Right.

REP. D'AGOSTINO (91ST): So you are -- you are a -- were you -- were you designated as an assistant registrar or a poll moderator?

JOSEPH COLLIER: A registrar.

REP. D'AGOSTINO (91ST): Okay.

JOSEPH COLLIER: At Bunnell.

REP. D'AGOSTINO (91ST): And was that Mr. Marccone [phonetic] who designated you?

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): Have you done that before?

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): How many years?

JOSEPH COLLIER: I don't know. It's gotta be six or seven, I think.

REP. D'AGOSTINO (91ST): That location each time?

JOSEPH COLLIER: A couple different, but that one, yes. That one for the last three or four.

REP. D'AGOSTINO (91ST): Is that your polling place?

JOSEPH COLLIER: No. No.

REP. D'AGOSTINO (91ST): But you've worked there for the last three or four --

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): Elections?

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): What is your recollection of what happened that day with respect to the -- the ballot issue?

JOSEPH COLLIER: Well, I mean, it was -- it was a busy day and the way they had it set up with the ballots in the bin -- I don't know how, but somehow or another a pack of ballots was given -- from the 120th was mixed in, and they all look like -- they were all the same color of ballots in the same packs, so one way or another, a pack of ballots was given to the wrong -- at the wrong table, you know, was passed out.

REP. D'AGOSTINO (91ST): And when it happened, what was your involvement?

JOSEPH COLLIER: I was -- I didn't really know about it to be honest with you until after it happened when it was said, and it was already done, and then we just -- you know, and then I -- I don't know. There was nothing else you could do at that point.

REP. D'AGOSTINO (91ST): So just walk me through just sort of the timeline of the day. Your working there, what happened? Does Mr. Storat [phonetic] come to you? What do you -- what do you --

JOSEPH COLLIER: No one came to my -- myself because it was kind of busy, but the head moderator or you

know, came up and just said somebody had said that he did his ballot and the gentleman's name wasn't on it, so he assumed that maybe a pack of ballots had gotten mixed. I don't know how it was in a different box, you know, one way or another, and just to, you know, keep an eye on everything, you know, after that because everything had been going smooth all day until that happened. You know, but I mean all the ballots they kind of look the same except for up in the right-hand corner the way the -- I'm sure you guys saw it -- how it was with the number. Unless you were really looking at that, they all look the same.

REP. D'AGOSTINO (91ST): We had heard testimony about in prior years they were color coated.

JOSEPH COLLIER: They had been in the past, but they weren't at this election.

REP. D'AGOSTINO (91ST): But they weren't for this election?

JOSEPH COLLIER: Right, so that's --

REP. D'AGOSTINO (91ST): Where were you working that day? What was your -- what was your role that day?

JOSEPH COLLIER: I was -- I was like your substitute when someone needs a break, and there was a lot of spoiled ballots that day, so you're kind of, your running around and keeping an eye on everything. It was -- it was a busy day. There was a lot of -- big turn out.

REP. D'AGOSTINO (91ST): What -- what do you mean there were a lot of spoiled ballots that day?

JOSEPH COLLIER: Well, there was more than the usual spoiled ballots because the way the ballot was set

up this year was on the front and the back. I don't know if you guys saw that?

REP. D'AGOSTINO (91ST): Yeah, we did.

JOSEPH COLLIER: And people were having problems with it, and so you're basically, you know, going over and trying to help people get it, spoil a ballot, put it -- and then you go grab another one and had them redo it.

REP. D'AGOSTINO (91ST): How is a ballot spoiled? What's the process?

JOSEPH COLLIER: Well, if they didn't fill the squares out -- the circles right or they double -- they were double voting on the same -- in the same line. It was -- It was a lot of, you know, it was more than normal, you know, because this is the first time that I remember they used the front and the back on the ballot and it was two questions -- referendums on them, so --

REP. D'AGOSTINO (91ST): How does that -- how does that come up? The machine spits it out?

JOSEPH COLLIER: Yeah, yeah, yeah. It won't -- the machine won't take it, and then you got to go all the way over and grab it, and you, you pretty you can tell what it is by looking at it, and then you bring them back, sit them down, and you grab another ballot where they got it from.

REP. D'AGOSTINO (91ST): And where are the spoiled ballots put?

JOSEPH COLLIER: They're in a packet of -- of -- by -- on their own.

REP. D'AGOSTINO (91ST): A packet?

JOSEPH COLLIER: The head moderators table. You bring them back and he had a big envelope, you put those in it, and those are sealed at the end of the day. You know, you X it off. You got to X it off so --

REP. D'AGOSTINO (91ST): Yeah, yeah.

JOSEPH COLLIER: It's spoiled, and then you put, you know.

REP. D'AGOSTINO (91ST): How many do you recall being spoiled?

JOSEPH COLLIER: You know what, I don't -- it was -- it was -- it was more than -- I think it was more than 70-75 if I remember, you know, but don't quote me.

REP. D'AGOSTINO (91ST): That's an interesting number [Laughter], but you don't know if those were for the 120th or 122nd?

JOSEPH COLLIER: No, no, no.

REP. D'AGOSTINO (91ST): It could be higher?

JOSEPH COLLIER: No, no, no. That was everybody. That was across the board.

REP. D'AGOSTINO (91ST): I gotcha.

JOSEPH COLLIER: You know what I mean?

REP. D'AGOSTINO (91ST): Did you ever sub in as a checker?

JOSEPH COLLIER: Yes, I did.

REP. D'AGOSTINO (91ST): For the 120th?

JOSEPH COLLIER: Probably. [Crosstalk].

REP. D'AGOSTINO (91ST): The way we heard it yesterday there were two tables for the 120th. It was broken up. Is that right?

JOSEPH COLLIERE: Right.

REP. D'AGOSTINO (91ST): You said, probably. Do you remember for sure if you did?

JOSEPH COLLIER: Well, yeah, I would assume I did because everybody was taking breaks and I know how to do that. Do you know what I mean? So that -- that's, you know, I did -- I did it on all the tables at one point during the day.

REP. D'AGOSTINO (91ST): Can you just describe the checking process for me, how that works? What you do physically?

JOSEPH COLLIER: The voter will come in, you show your ID, you give your -- you give your address, and then you look it up in the -- in the book, and if it shows up, and then you take a ruler, and you cross it off.

REP. D'AGOSTINO (91ST): Yellow highlighter?

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): Will you speak into the microphone when you speak --

JOSEPH COLLIER: Oh, I'm sorry. [Crosstalk].

REP. D'AGOSTINO (91ST): So we can pick up your -- pick up your testimony. So just going back to the -- to the issue. Do you recall where you were when that -- when you first heard, or?

JOSEPH COLLIER: Not really. No, to be honest, no. No, no.

REP. D'AGOSTINO (91ST): Uh-huh.

JOSEPH COLLIER: Because we were -- it was kind of -
- it was -- it was busy.

REP. D'AGOSTINO (91ST): Uh-huh.

JOSEPH COLLIER: You know, and then it -- that just
came up, and you know, came up out of nowhere
really. Do you know what I mean?

REP. D'AGOSTINO (91ST): Speak into the mic.

JOSEPH COLLIER: It came up out of nowhere. I
thought everything -- everything was going pretty
smooth until that happened.

REP. D'AGOSTINO (91ST): Do -- do you recall the
line stopping. Mr. Storat [phonetic] mentioned to
us that he -- he thought he had stopped the line to
correct the issue once he realized it.

JOSEPH COLLIER: No, I don't remember that.

REP. D'AGOSTINO (91ST): No?

JOSEPH COLLIER: No.

REP. D'AGOSTINO (91ST): Do you -- do you remember
were you part of the conversation of how to correct
what was happening?

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): What was that conversation?

JOSEPH COLLIER: That was with the head moderator,
came over -- just came over and said, make sure that
- double check the packs, you know, when you open
them up and make sure that they're -- you know, it's
-- it's the right number up in the corner.

REP. D'AGOSTINO (91ST): Uh-huh. And that was -- are they -- are they your responsibilities or Mr. Heriot's responsibility, or Mr. Storat's responsibility --

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): To get the packets?

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): For the ballot clerks?

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): And we had this described -- I guess they were in a locker?

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): And one side of the locker is 120 and one side is 122?

JOSEPH COLLIER: Yes. That's the way we set it up, yeah.

REP. D'AGOSTINO (91ST): And the ballot clerks were not tasked with opening --

JOSEPH COLLIER: No.

REP. D'AGOSTINO (91ST): Packets, right?

JOSEPH COLLIER: No. Well, no, they were -- no, no, no, no, no, no, no, no, no, no, no. We would grab them and bring them over to the ballot clerk to open them up. No, they didn't have to do that, and they didn't go in the bin or anything. The ballot clerks.

REP. D'AGOSTINO (91ST): Right.

JOSEPH COLLIER: Yeah.

REP. D'AGOSTINO (91ST): That's the three of you?

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): Okay. Did you -- when this occurred, did you -- did you call anyone?

JOSEPH COLLIER: You know what I think -- I think the head moderator, Mel, he was, you know, he -- he kind of took over on that to be honest with you because, you know, when it happened, and we just had to keep -- 'cause we had to just keep going. You know what I mean? It wasn't really --

REP. D'AGOSTINO (91ST): Do you recall anybody from the registrar's office coming down with respect to this issue?

JOSEPH COLLIER: You know, I don't -- I don't recall that. I mean I'm assuming somebody did. You know, but it was -- it was -- it was pretty, you know, it was busy. You know, and I know Mel was over there. he was the top dog, so he was kind of talking to everybody, and then you know we just had to go back to, you know, keeping it going. You know what I mean?

REP. D'AGOSTINO (91ST): At the end of the night, did you have any role in tabulating the -- the numbers off the checklist? As I understand it, the checklist for each district, the 122 and the two -- three checklist for the 120th --

JOSEPH COLLIER: Right.

REP. D'AGOSTINO (91ST): Those are added up, so you can count how many people you checked off. Is that -- do you have a role in that?

JOSEPH COLLIER: No, I didn't have a role in that.

REP. D'AGOSTINO (91ST): None whatsoever?

JOSEPH COLLIER: No, we just -- what we do is you take a check every hour, and you called it into the town, and then at the end of the day -- the regular checkers did that -- and then they gave their numbers at the end of the day.

REP. D'AGOSTINO (91ST): Who did the calling to the town each hour?

JOSEPH COLLIER: Either I did or Mel.

REP. D'AGOSTINO (91ST): Do we have a copy of that? [Off record conversation]. No, the hourly checklist. Describe that -- describe that process. How did you -- how did you get the number for the hourly report?

JOSEPH COLLIER: Well, what you would do is you would go to the machine, grab the number off of that, and then the -- each checker table would give you a count for that hour, and then we'd tally it up over there on that, and try to make -- make sure it was matched up, you know, as close as possible, whatever, and then you call up and gave the number to the town.

REP. D'AGOSTINO (91ST): Sir, let me see the original before you go copy it. So you -- so you did compare the machine total to the --

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): Checker total?

JOSEPH COLLIER: Yes, yes.

REP. D'AGOSTINO (91ST): How is the checker total reported to you?

JOSEPH COLLIER: You asked each of them. You know, there was the three checkers, and you'd ask each one what they got for that hour. You know, they -- they were doing an hourly count on a piece of paper. They would check off everyone that did it.

REP. D'AGOSTINO (91ST): With a total?

JOSEPH COLLIER: Yeah.

REP. D'AGOSTINO (91ST): Each hour?

JOSEPH COLLIER: Yes, yes, yes. So you get the three totals, and then you add it to what it was for that hour. You know?

REP. D'AGOSTINO (91ST): Can I see the -- the two checklists? So do you recall a discrepancy at some point in time?

JOSEPH COLLIER: Not really, no. Everything seemed -- everything seemed fine.

REP. D'AGOSTINO (91ST): Well, how could that be though? I mean the whole -- the whole issue here is that there's a discrepancy at the end of the day, so at some point, there had to be a discrepancy between the machine and the checklist, right? No? Am I wrong? Apparently, I'm wrong and I thought --

REP. CANDELORA (86TH): Well, just to clarify because last -- yesterday we clarified the machine -- all the ballots are going into one machine.

JOSEPH COLLIER: Oh, I'm sorry. Right. I'm sorry. [Crosstalk].

REP. CANDELORA (86TH): I gotcha.

JOSEPH COLLIER: Right.

REP. CANDELORA (86TH): All right.

JOSEPH COLLIER: Thank you. [Crosstalk], sir.

REP. D'AGOSTINO (91ST): My mistake. Go ahead.
Yeah, go.

REP. CANDELORA (86TH): So just about these counts. I just want to make sure I understand what we're dealing with in terms of the report -- the hourly report, right? So when you're sitting at the table and you're check -- crossing off names --

JOSEPH COLLIER: Right.

REP. CANDELORA (86TH): At the end of the period, you're not counting the number of crossed off names, you're -- each checker is also making a hashmark on a page to keep count of the total number of voters who voted since the last time they reported the number of voters who reported?

JOSEPH COLLIER: Yeah, yeah, you're right. Well, every hour, you had to -- you didn't really do it in the book. It was easier -- we had a piece of paper on the side there.

REP. CANDELORA (86TH): Right.

JOSEPH COLLIER: [Clearing throat] And what you do is you just get a list after, you know, every five, cross it off.

REP. CANDELORA (86TH): Right.

JOSEPH COLLIER: And -- and they do that in-between -- you know, but the person checking the license and the actual guy checking crossing it off, between the two of them, they would just do it like seven to eight, eight to nine, and then you know match it up that way.

REP. CANDELORA (86TH): Right.

JOSEPH COLLIER: You know, and then at the end of the day the checker she could -- she would go up and down her page and you can -- and you can count that off too. I mean everybody -- you know.

REP. HADDAD (54TH): But at the -- I'm just imagining like at the end of the day --

JOSEPH COLLIER: Right.

REP. HADDAD (54TH): Right? When you've had hundreds and hundreds of voters --

JOSEPH COLLIER: Right.

REP. HADDAD (54TH): Casting their ballots and all of them are yellow highlighted off. You're not using the official checklist to determine how many people voted between the 6 o'clock hour and the 7 o'clock hour. That's -- what I -- I guess I would describe an ad hoc system of hashmarks to determine how many ballots were casts during that hour.

JOSEPH COLLIER: Right, right, right. That's -- and -- you're right. That's all you can really do, yeah. I mean then you have to total the whole book to get the total, but every hour you can't tell -- you're not going to be able to tell who voted that out or -- I mean, you know, it's just --

REP. HADDAD (54TH): It would be impossible to count --

JOSEPH COLLIER: Right.

REP. HADDAD (54TH): That number.

JOSEPH COLLIER: Yeah, that -- you know.

REP. HADDAD (54TH): Right. And when -- and when we say the number's approximate --

JOSEPH COLLIER: Right.

REP. HADDAD (54TH): It's approximate because there's some people still in line --

JOSEPH COLLIER: Yes.

REP. HADDAD (54TH): There's some people still in the privacy booths.

JOSEPH COLLIER: Well, yeah, but you're being pretty much on the money. It's pretty -- you know -- you know.

REP. HADDAD (54TH): It's in the ballpark.

JOSEPH COLLIER: Yeah.

REP. HADDAD (54TH): It's not exact.

JOSEPH COLLIER: Yeah, yeah, it's -- yeah.

REP. HADDAD (54TH): Right. There is also no way of determining whether -- I'm just -- I'm trying -- I'm asking this question, I guess.

JOSEPH COLLIER: Right.

REP. HADDAD (54TH): Were -- how reliable were those counts?

JOSEPH COLLIER: Oh --

REP. HADDAD (54TH): Was there ever in an instance when you had a lot of people in line and you're crossing off names, and maybe someone just forgot to put down a hashmark? I mean it's not an official document. It's an -- it's intended to be --

JOSEPH COLLIER: Yeah, no, I understand.

REP. HADDAD (54TH): An approximation.

JOSEPH COLLIER: I understand. I mean I'm not -- I don't recall that because they seem like they were -- it was all good all day. You know?

REP. HADDAD (54TH): Yeah.

JOSEPH COLLIER: These -- most of --

REP. HADDAD (54TH): Doing the best you can.

JOSEPH COLLIER: Most of them had done it before. It wasn't, you know --

REP. HADDAD (54TH): Yeah.

JOSEPH COLLIER: I mean I know it didn't -- it's not looking like that right now, but [Laughing].

REP. HADDAD (54TH): [Laughing] I -- I completely believe that people were doing the best they could.

JOSEPH COLLIER: Yeah.

REP. HADDAD (54TH): Let me ask you a different question, sir. When you -- there were times when you -- you -- you are one of the few people who is authorized to go into the blue locker to get additional ballots --

JOSEPH COLLIER: That's right.

REP. HADDAD (54TH): Out of the locker and bring them over to the ballot clerks, right?

JOSEPH COLLIER: Yes, I was.

REP. HADDAD (54TH): Right. And so you'd go over and -- just -- I mean how would you know to go over to -- to the locker?

JOSEPH COLLIER: Oh, well, you know, you could tell -- you could tell when they were getting low.

REP. HADDAD (54TH): So you'd be watching --
[Crosstalk].

JOSEPH COLLIER: You just keep an eye on it. We had
a -- you know, the right side was the one and the
left side was the other. That was the --

REP. HADDAD (54TH): All right.

JOSEPH COLLIER: System we were using all day.

REP. HADDAD (54TH): Yeah.

JOSEPH COLLIER: And --

REP. HADDAD (54TH): To your recollection, were you
-- were you primarily -- who -- who was -- who did
that mostly? Who had that job --

JOSEPH COLLIER: I did.

REP. HADDAD (54TH): Mostly?

JOSEPH COLLIER: Yes.

REP. HADDAD (54TH): Always?

JOSEPH COLLIER: Not always. I mean -- yeah, but I
-- I -- I did hand out most of them.

REP. HADDAD (54TH): Okay.

JOSEPH COLLIER: You know what I mean? So --

REP. HADDAD (54TH): Yeah. Right. And when you
also said that there were a lot of people -- it was
a busy day.

JOSEPH COLLIER: Yes.

REP. HADDAD (54TH): People were moving pretty
quickly, and so how -- how often on average and
during the course of 15 minutes or 10 minutes or an

hour, would you go over? Like, how often would you go over to the -- to the locker?

JOSEPH COLLIER: Oh, well, -- well, in the morning, it was -- it was -- it was real busy, so it was -- I don't know. You'd go over -- you probably went over a couple times in an hour. You know what I mean?

REP. HADDAD (54TH): Yeah.

JOSEPH COLLIER: And then -- and then you get a little slow in the middle of the day, and then it picked up, but you know, I don't think it went -- you know, you went over -- because I think it was like 75 or -- ballots in a pack or 80 -- whatever it was --

REP. HADDAD (54TH): Uh-huh.

JOSEPH COLLIER: But you know, you could -- you could get an hour out of it.

REP. HADDAD (54TH): Yeah. And you would -- you would also break open the pack --

JOSEPH COLLIER: Yes.

REP. HADDAD (54TH): And give them to the ballot clerks.

JOSEPH COLLIER: Yes. Oh, yes, because they were plastic, yeah.

REP. HADDAD (54TH): Right.

JOSEPH COLLIER: Yeah, we didn't have -- you know, they didn't have to do that.

REP. HADDAD (54TH): Would you always bring over one packet at a time?

JOSEPH COLLIER: Yes.

REP. HADDAD (54TH): Or would you ever bring over more than one?

JOSEPH COLLIER: No, just one.

REP. HADDAD (54TH): So there was never a time when -- there was never a time when more than -- than -- more than one ballot clerk needed to be replenished at the same time and you'd go and retrieve two packages -- [Crosstalk].

JOSEPH COLLIER: No, no, no, that never. No, that never happened. We always did one at a time.

REP. HADDAD (54TH): Yeah.

JOSEPH COLLIER: You know, and we -- yeah, so.

REP. HADDAD (54TH): Thank you.

REP. D'AGOSTINO (91ST): Okay. And within that locker, I think we established that a bit earlier that there was a -- there was a side that was 120 labeled and 122nd labeled?

JOSEPH COLLIER: Yes.

REP. D'AGOSTINO (91ST): So it seems unlikely that -- I mean I suppose it's possible that he would have grabbed -- gone into the 122nd for a 120. In terms of trying to figure out what happened here, we also heard testimony yesterday that we -- you know, you don't know what's in there in terms of the printer.

JOSEPH COLLIER: Right.

REP. D'AGOSTINO (91ST): What he puts in there as well.

JOSEPH COLLIER: Right.

REP. D'AGOSTINO (91ST): I want to make sure it's clear. Nobody's accusing anybody of any intentional misconduct here.

JOSEPH COLLIER: Yeah, I know.

REP. D'AGOSTINO (91ST): Something happened here. Certainly, it looks like just a complete accident --

JOSEPH COLLIER: Yeah.

REP. D'AGOSTINO (91ST): From everybody from what we're seeing, and I just will ask you for the record; do you have -- do you have anything you want to tell us in terms of what you think might have happened?

JOSEPH COLLIER: No, I -- I really don't. I thought -- I thought everything was going along smooth until that happened, to be honest with you, so I mean -- I -- I -- you know, I -- I thought all the ones that was handed out, you know, were the right ones, but whether it was a mix up, whether I did it unintentional, I don't really know, to be honest with you. And there's just, you know -- and it was -- so -- and I don't know about anybody else, so, but.

REP. D'AGOSTINO (91ST): Thank you. Any other questions? Thank you very much. Have a good -- Mr. Perillo.

REP. PERILLO (113TH): Mr. Collier, I just wanted to say thank you for being here today. I'm sorry we dragged you up here.

JOSEPH COLLIER: Yeah, no problem.

REP. D'AGOSTINO (91ST): Thank you. Next witness. Mr. -- am I saying it right -- Heriot?

DAVID HERIOT: Dave Heriot.

REP. D'AGOSTINO (91ST): Dave Heriot.

DAVID HERIOT: Do you want me to get up?

REP. D'AGOSTINO (91ST): Yep, please, sir. Thank you, and we'll swear you in. Do you swear or affirm as the case may be that the information you will provide to this committee will be the truth, the whole truth, and nothing but the truth, so help you God under penalty of perjury?

DAVID HERIOT: I do.

REP. D'AGOSTINO (91ST): Thank you, sir. Please sit down. Same questions for you, sir. Could you state your name and your role?

DAVID HERIOT: David Heriot, assistant registrar, Bunnell High School.

REP. D'AGOSTINO (91ST): And you were appointed at Bunnell for election day this past election?

DAVID HERIOT: Yes, sir.

REP. D'AGOSTINO (91ST): Have you served there in that role previously?

DAVID HERIOT: Yes, sir.

REP. D'AGOSTINO (91ST): How many years?

DAVID HERIOT: This is my third year as assistant, and then prior to that maybe five or six years as a checker.

REP. D'AGOSTINO (91ST): At Bunnell?

DAVID HERIOT: No. Different Schools throughout Stratford.

REP. D'AGOSTINO (91ST): I'll ask you the same question I asked Mr. Collier. What do you remember about that day with respect to what happened?

DAVID HERIOT: [Clearing throat] Well, normally, I would be in the back with Joe and Mel as assistant doing, you know, making -- making phone calls to townhall, getting ballots, but this particular day it was pouring raining out, and Mel said -- I mean we had -- we were 6 o'clock in the morning we were -- the lines were outside the door, so we had the three tables set up. He said, "Why don't you stay up front." More or less, being a traffic cop, and that's what I did for 14 hours. I never -- I never went into the bin or I really never went to the back. About 2 o'clock in the afternoon, this gentleman came up to me and said, "Could you tell me why my candidate -- my candidate isn't on my ballot?" And I says, "Well, where you from?" He goes, "The 120th." He was from M to Z on the street name, so I said, "Well, that's the table you should be getting your ballot from." And, he goes, "I did get my ballot from there."

REP. D'AGOSTINO (91ST): Hm.

DAVID HERIOT: So I went over there and I got Mel, and explained the situation to him, and then he took it over, and then there were the -- the ballots from the 122nd laying on top of the pile, and that's when I went back to the front of the school to the line.

REP. D'AGOSTINO (91ST): And you didn't have any further involvement in how Mr. Starot [phonetic] handled that?

DAVID HERIOT: No. I know he took the ballots off and put them where they belong, and then we

continued. I believe, he did make a phone call downtown, but that's really - that was my involvement, you know, and the gentleman said, if he had knocked on my door, I wouldn't even have known it." And he supposedly was only one person that did pick it up out of I don't know how many ballots, so.

REP. D'AGOSTINO (91ST): Did you recall anybody coming in from townhall later that day to look into this.

DAVID HERIOT: I don't know. I recall them coming down, but I don't know if it was for that issue or not. You know, 'cause they would stop in all the time, you know, to check on numbers, to check on us, if we needed, you know, tape for the machine or you know, so I -- I don't really -- I don't really know.

REP. D'AGOSTINO (91ST): Do you recall any other issues that day?

DAVID HERIOT: No. Other than the spoiled ballots. I mean it was pouring out, and I was handing out paper towels to these people, and I mean it's a lot of old people from Oronoque Village that came in, and that -- that rain was, you know -- they used these markers and you know, the markers run, and that was I think a cause of a lot of spoiled ballots also.

REP. D'AGOSTINO (91ST): Yeah, I was going to ask you about the spoiled ballots that I've heard about.

DAVID HERIOT: Yeah, and you know, that kept him busy a lot -- you know, Joe, so -- and I believe there was in the 70s -- the amount of spoiled ballots, but that had a lot to do with it -- the weather, and then the two-sided ballot, and people

were confused, and I mean you're dealing with people that's 70 to 80 to 85 years old, so I mean.

REP. D'AGOSTINO (91ST): Do -- do you know what happened to that envelope with the spoiled ballots?

DAVID HERIOT: That goes downtown.

REP. D'AGOSTINO (91ST): Mel -- Mel takes care of getting that downtown?

DAVID HERIOT: Yeah, that's all packed up and brought downtown to my knowledge.

REP. D'AGOSTINO (91ST): Do you have any role in -- in bringing anything at the end of the day downtown?

DAVID HERIOT: Nope.

REP. HADDAD (54TH): Thank you very much for coming up and testifying.

DAVID HERIOT: That's no problem.

REP. HADDAD (54TH): I think that our committee's just working very hard to establish and recognize what happened.

DAVID HERIOT: Yeah, I understand.

REP. HADDAD (54TH): I did have just one question about what, you know, something that you just said. When you -- so you said you were essentially the traffic cop. You were the first person that voters would meet --

DAVID HERIOT: I greeted them at the door.

REP. HADDAD (54TH): Right.

DAVID HERIOT: I would just ask them where they were and you know, by the time two or three hours went

by, I knew where they had to go without looking it up. I had a sheet, you know, of streets.

REP. HADDAD (54TH): Yeah.

DAVID HERIOT: And it was just like here, here, bump, bump, and it was crazy. I mean we were busy. We got close to 70 percent turnout, you know, so.

REP. HADDAD (54TH): So the way the polling site was set up is they'd come through the doors, you would greet them, direct them to the check-in tables?

DAVID HERIOT: Right.

REP. HADDAD (54TH): There were check-in tables, they would get checked in and get a ballot?

DAVID HERIOT: Right.

REP. HADDAD (54TH): Then, they'd be directed to privacy booths?

DAVID HERIOT: Right.

REP. HADDAD (54TH): And then presumably be in the privacy booths. There was a tabulator, and maybe an exit on the far end of the --

DAVID HERIOT: That's correct.

REP. HADDAD (54TH): Except, people weren't coming back and forth through the polling site?

DAVID HERIOT: No, no, no. They'd come around. You go to this table, this table, this table.

REP. HADDAD (54TH): Yeah.

DAVID HERIOT: And then you'd go to your polling booth, and then there was -- you kind of -- to the right, there was an exit, and you go right out.

REP. HADDAD (54TH): Yeah.

DAVID HERIOT: But at times, there was -- I mean there was lines and --

REP. HADDAD (54TH): Yeah.

DAVID HERIOT: People who were -- you know -- there was a lot of people.

REP. HADDAD (54TH): So the question I have just for you. I just want to make sure I understand what your role is in this because my understanding is you're identified as a person, a moderator log, as being the first person, the first official to start getting an inkling that something was going -- had gone awry.

DAVID HERIOT: Oh, yeah. He came to me.

REP. HADDAD (54TH): Right. Yeah.

DAVID HERIOT: I mean --

REP. HADDAD (54TH): But at that point --

DAVID HERIOT: He wasn't in a polling booth. He walked over to me where I was sitting.

REP. HADDAD (54TH): But -- but at that -- where -- where were you?

DAVID HERIOT: I was in front of the school. You know, greeting the people.

REP. HADDAD (54TH): So -- so then the part that I just want to make sure I understand, so a voter got a ballot, they went to the check in, they got a ballot, they went to the privacy booth, they didn't find their candidate, and then they walked --

DAVID HERIOT: There was only one.

REP. HADDAD (54TH): Uh-huh.

DAVID HERIOT: Now, remember there was only one.

REP. HADDAD (54TH): But then that person walked past the place again where they handed out the ballots, past the check-in tables, to you at the front door and said, my ballot is wrong?

DAVID HERIOT: Well, he went and got his ballot, so he must have went over to fill it out. He realized hey wait a minute these two guys aren't on my ballot.

REP. HADDAD (54TH): Right.

DAVID HERIOT: And then he came back. I don't know how he got back, but I mean -- [Crosstalk].

REP. HADDAD (54TH): Were -- were voters typically allowed to leave the voting site with ballots?

DAVID HERIOT: Say that?

REP. HADDAD (54TH): Were -- were voters typically allowed to leave the polling site with -- you know, to get beyond where they were authorized to hold ballots?

DAVID HERIOT: No.

REP. HADDAD (54TH): I mean --

DAVID HERIOT: You fill out your ballot --

REP. HADDAD (54TH): I'm just trying to figure out how --

DAVID HERIOT: And then you walk to the tabulate, so.

REP. HADDAD (54TH): Right. But this person didn't.

DAVID HERIOT: He had to come --

REP. HADDAD (54TH): This person went the other direction.

DAVID HERIOT: He chose to come to me. Why? I don't know.

REP. HADDAD (54TH): And I guess -- so I guess I'm -- just let me ask you a question again. It's not typical for -- for voters to be able to work backwards through the process?

DAVID HERIOT: No.

REP. HADDAD (54TH): With holding a ballot.

DAVID HERIOT: Yeah. Usually, if there's a problem with a ballot, one -- Joe or Mel will be called to right where they fill them out, and then they would take care of the problem there. They do not walk back through anywhere.

REP. HADDAD (54TH): Except, this guy did.

DAVID HERIOT: This guy did.

REP. HADDAD (54TH): Right. Would it -- and I say this really because I want to be able to establish a record and understand. We have heard -- and I think it's very unlikely, but we've heard that the only -- that the only reasonable reason why there would be fewer ballots in the machine is because they were handed a wrong ballot and they were recorded in a different race, and this right from the check-off list. Is there any way that a voter could leave a polling site with a ballot?

DAVID HERIOT: Unless he put it in his jacket or down his pants or something or whatever, but no.

REP. HADDAD (54TH): But this guy did and just walked --

DAVID HERIOT: No.

REP. HADDAD (54TH): In the reverse direction.

DAVID HERIOT: He asked a question, and --

REP. HADDAD (54TH): Yeah.

DAVID HERIOT: I don't know. He saw me and maybe everybody else was busy, and he came over, and I took him right to the table where he was supposed to get the ballot, and there were wrong ballots there, so.

REP. HADDAD (54TH): Right.

DAVID HERIOT: And that's the question everybody's trying to, you know.

REP. HADDAD (54TH): So more generally, and you're an assistant registrar, but is it generally that instructions are given to the folks who work in the polling site that they should watch for people who are wandering around the polling site?

DAVID HERIOT: Nobody warns us, no. Nobody warns us. People don't wander around. They --

REP. HADDAD (54TH): Except -- [Crosstalk].

DAVID HERIOT: They go to their table --

REP. HADDAD (54TH): [Laughing] I mean I'm sorry, except this guy did.

DAVID HERIOT: Well, he had a ballot, so he needed a questionnaire, so --

REP. HADDAD (54TH): Yeah.

DAVID HERIOT: He came to me. He wasn't wandering around. He went to vote, and he probably looked and said, wait a minute, where's Feehan or where's Young?

REP. HADDAD (54TH): Yeah, I -- I -- I completely -- he was looking for an answer and I get it.

DAVID HERIOT: Yeah. But nobody wanders.

REP. HADDAD (54TH): I guess -- so I guess he decided not to -- I mean I know where the head moderator was at that moment, maybe he just didn't recognize that person?

DAVID HERIOT: Well, he doesn't know who --

REP. HADDAD (54TH): Okay.

DAVID HERIOT: The head moderator was, or --

REP. HADDAD (54TH): But he knew you because you had greeted him; is that correct?

DAVID HERIOT: I was right there, right.

REP. HADDAD (54TH): That's perhaps why he went to you, because you greeted him, right?

DAVID HERIOT: Right.

REP. HADDAD (54TH): But he didn't go back to the person who handed him the ballot?

DAVID HERIOT: No.

REP. HADDAD (54TH): They just --

DAVID HERIOT: Not that I know of. [Crosstalk]. I don't know who he talked to before, but maybe somebody sent him to me, but --

REP. HADDAD (54TH): Yeah.

DAVID HERIOT: He came to me, and I did what I had to do.

REP. HADDAD (54TH): Thank you.

REP. D'AGOSTINO (91ST): Is this in the gym or the cafeteria?

DAVID HERIOT: We're in the gym.

REP. D'AGOSTINO (91ST): Just physically, where's the -- where were you versus where the (inaudible - 01:00:18)?

DAVID HERIOT: I'm in front. They come through the doors --

REP. D'AGOSTINO (91ST): And are they leaving past you as well? The doors?

DAVID HERIOT: Yes, on the other side because the ballot tabulator was like right -- you know, I'm here -- I'm here, here's the -- here's the ballot, here's the booth, so here's where you vote, they vote, they put it in, and they go out these doors, and here I am, and then all the tables are in front of me here.

REP. D'AGOSTINO (91ST): So where they vote, you're -- you're sort of in a line of sight of where they vote?

DAVID HERIOT: No. That's like 10 o'clock. They're this way, 10. Here to the right. Oh, no, to the left. I mean I can see the tables, but I can't see them voting or anything like that.

REP. D'AGOSTINO (91ST): Okay. Thank you very much, sir. I appreciate you coming down.

DAVID HERIOT: No problem.

REP. D'AGOSTINO (91ST): [Off record conversation]
So for your purposes, Greg had requested we would like those names if we could get them?

BRYAN LECLERC: I can have those to you --
[Crosstalk].

REP. D'AGOSTINO (91ST): The folks who worked, so that we can see one of the original signed reports that had moderator's signed report that contains both the AB and the machine numbers with the signature.

BRYAN LECLERC: Let me get back to you today. I think we have it. If we don't, I will come back here.

REP. D'AGOSTINO (91ST): That sounds good.

BRYAN LECLERC: I think we have it, but if we don't, we'll come back to you. You wanted all workers involved in the recanvas by district including the AB?

REP. D'AGOSTINO (91ST): Yeah, and I think just to add to that just to put a bow on it. What happened to the spoiled ballots from the Bunnell location? Are they still in the registrar's custody or not? Not necessarily requesting them, but just to know where they are at the moment?

BRYAN LECLERC: Yeah, I can confirm that in just a few minutes if you want to take a brief break?

REP. D'AGOSTINO (91ST): Yeah, why don't we take --
[Crosstalk].

BRYAN LECLERC: And I'll make the call.

REP. D'AGOSTINO (91ST): That'd be great.
[Crosstalk]. Thank you. And then once we're done

with you we don't have any other witnesses. Attorney Blouss is here from Mr. Young's -- Mr. Young's counsel who wanted to address this briefly after the break. Thank you. We'll recess for 10 minutes.

Reconvene the committee on contested elections and on our agenda items, there is other presentations, and we have Attorney Blouss here representing Mr. Young. Attorney Blouss. I'm sorry, please -- [Crosstalk].

BRYAN LECLERC: I found this report as instructed. During the break, I contacted the registrars of voters. The original signed head moderator's report including both the AB and the machine tabulations is submitted to the secretary of state's office, and she would retain the original. We believe we have a copy of that document in Stratford, and we would provide it to the committee at beginning of next week. As to the -- your request for the names of all workers by district involved in the recanvas, we will provide that as well. And finally, you inquired regarding the spoiled ballots. Those are stored in a sealed envelope following the election, and they are maintained in the town of Stratford with the other original ballots.

REP. D'AGOSTINO (91ST): Thank you very much, Attorney LeClerc.

BRYAN LECLERC: Thank you.

REP. D'AGOSTINO (91ST): Attorney Blouss.

ATTORNEY BLOUSS: Thank you, and I -- I -- I apologize for not being here yesterday. I did have a prior commitment also in Hartford, but I understand and -- and -- I understand that yesterday

it came up that there was some interest in trying to consider whether there is any guidance out there about what standards, what guidelines might exist for this committee to -- in moving forward, in making a recommendation or report to the full House. I think that one of the reasons probably that you are -- I don't know what the right verb is -- you're struggling with that or uncertain about that is because it really doesn't come up very often, obviously. You four, for better or for worse, are the first of your colleagues since 1985 to perform this function, and there is not an extensive set of -- of background history. There is not an extensive set of guidelines that would guide you in doing what you need to do moving forward. You are under the -- under Article 3rd of the Connecticut constitution, you are fundamentally the supreme court. You have the complete judicial power -- the House all together -- has the complete judicial power over the determining the returns of this particular election and deciding what to do next. That power is -- is -- is preserved to the House by the Constitution of 1818, when before that, the General Assembly had all power in the state of Connecticut executive, judicial, and legislative.

You reserve, the House, your predecessors, reserve -- or frankly the people of the state of Connecticut reserve the judicial power to -- to determine election returns for your own members in the Constitution of 1818. That is why you're here. Fortunately, this power that you reserve, or the people reserve to the House has not been applied very often by members of the Connecticut General Assembly, and that's a good thing, obviously. This is not a committee that you would want to have

formed every year, nor would you want to have it have to decide this every year, but it is good that -- that this process is in place. What you will not find, I think, is that there are -- there are no state statutory standards that are going to be any help to you at all. In 1986, a statute was passed -- or I'm sorry. A Public Act was passed by the General Assembly that would have at least created some statutory process, guidelines for a committee of this sort. Governor O'Neill vetoed that Act on the ground that it would have taken away from the House or the Senate the unilateral authority to set its own rules and decide how to conduct exactly what the kind of a process you're conducting here.

So you have complete discretion, complete authority in how you move forward and what you ultimately do. You are also going to find that Mason's Legislative Manual is not going to be of very much help to you. It decides -- it defines what your functions can be, but it does not set forth either process or standards. So in the absence -- and I -- and I think that in so far as you are exercising judicial power here, you are going to find that judicial decisions from other states or even from the state of Connecticut in other races are not going to be particularly helpful to you because they're applying different standards. They're applying different statutory schemes. They're applying different rules than the rules that you are going to be applying under the Connecticut Constitution.

So what I would like to do is make a suggestion. I've told you a -- a series of -- of authorities that I think are not going to be very helpful to you. Maybe I can suggest one that might be a little bit helpful to you.

As you know, the -- the -- the provision that brings you here in Article 3rd of the Connecticut Constitution was patterned on provisions in both that were part of the parliamentary process in England before the Revolution, and also patterned in part on a similar provision in the United States Constitution.

The United States Constitution provision relating to House contest and Senate contest has over the past 220 years been applied quite frequently, and the parliamentarian of the House of Representatives, a man named, Deschler, has written a multi-volume treatise on parliamentary process and in one of the treatise volumes, involves election contest. And it is available online. I can send the clerk a link to that, and -- and I think that it would be helpful for the committee to consider that because it is -- it is the case that there were two aspects of what has to be proven in a parliamentary election challenge. The first is was there a problem? And I'm going to touch on that in just a second, but the second issue is what is the impact of the problem and what does the problem require or suggest even that the House should do as a -- as a remedial measure?

According to Deschler -- it's D-E-S-C-H-L-E-R -- Deschler's precedents -- here's the place you start. The fact that the -- there -- then the parties are the -- you're gonna hear me refer to contestant and contestee. Mr. Feehan is the contestant and Mr. Young in this case would be the contestee. Under Deschler, Chapter 9, Section 35.1, the administration of the oath to the contestee may establish his prima facie right to the seat. This is Congress House -- U.S. Congress parliamentary

process, so that's the starting off point. Mr. Young has the prima facie right to the seat. The contestant, Mr. Feehan, has the burden of proof to establish his case on the issues raised by the pleadings by fair preponderance of the evidence. In the absence of a showing that the results of the election would be changed, lack of knowledge or registration laws, and improper enforcement by officials charged with their administration are not such irregularities as it would void the results of an election, and where the contestant alleges that the procedural requirements in an election have not been complied with, he has a burden of showing that due to fraud and irregularity, the result of the election was contrary to the clearly defined wish of the constituency involved. An elections committee will recommend dismissal of a contest where there is no evidence that the election was so tainted with the misconduct of election officers that the true result cannot be determined.

Now, one of the leading congressional contest cases is a case from 1971 in California called (inaudible - 00:08:07). That case stands that -- and again, this is a House contest, so this isn't -- I'm gonna call it a case, but it was decided by the United States House of Representatives. The requirement that the contestant in a contested election case make a claim to the seat carries with it the implication that the contestant will offer proof of such nature that the House of Representatives acting on his allegations alone could seat the contestant. That particular case involved 10,000 people in a race where there was a 2500 vote margin between the contestant and the contestee and 10,000 people were not allowed to vote -- improperly not allowed to

vote because they -- they were struck from the roles.

The House report ultimately read -- the committee's report ultimately read, "The requirement that the contestant make a claim to the seat is not a hollow one. It is rather the very substance of any contest. Such a requirement carries with it the implication that the contestant will offer proof of such nature that the House of Representatives acting on his allegations alone could seat the contestant."

The Deschler's Precedence summary or treatise also makes a point that the -- in relying on (inaudible - 00:09:23) case, that where the contestant cannot show how potential voters who were denied the right to vote would have voted, and -- and the committee expressed a hesitancy to invalidate an election under these circumstances and held that the contestant had not carried through on his burden of proving his claim to the seat.

Now, there are some cases also talking about the potential for a new election, and again, relying on the (inaudible - 00:09:51) case. Although, I think it's clear that -- that the House does -- it has -- has any authority that it wants. It has the authority to do anything ranging from nothing to a new election, and anything in-between, whatever that might be. The -- the House in the (inaudible - 00:10:13) case said -- actually, considered a request that the seat be declared vacant, and the -- the -- the committee wrote as follows relying on an 1897 treatise on the American Law of Elections, "The power to reject an entire poll, an entire election, is certainly a dangerous power, and though it belongs to whatever tribunal has jurisdiction to

pass upon the merits of a contested election case, it should be exercised only in an extreme case. That is to say where it is impossible to ascertain with reasonable certainty the true vote. Ignorance, inadvertence, mistake, or even intentional wrong on the part of local officers should not be permitted to disenfranchise a District."

So I'm gonna -- I can provide copies of some of this to the committee. I will also, as I said, I can -- I can forward the link to the clerk if -- if any of the committee members want to look at any of this. But the -- the -- and -- and there is also a reference in some of that to an election contest in 1998 involving Loretta Sanchez and Robert Dornan where the same -- the same principles are applied declaring a vacancy, and one of the options -- is one of the options available to the House and is generally exercised only when the House decides that the contestant, while has failed to justify his claim to succeed, has shown that -- that it's impossible to determine the will of the people otherwise.

So you have the authority to proceed as you wish. That much is clear. However, I would suggest to the committee that you consider these parliamentary precedence from the U.S. House of Representatives in deciding how to exercise that authority. That you may feel like you're riding on a clean slate, and in fact for Connecticut's purposes, you are largely. There have been prior election contests, most recently involving Joan Hartley as a former member of the House, but there aren't the kind of -- there aren't the kind of discussions of parliamentary standards that -- that the United States House and Senate have considered, so I would suggest to the

committee that -- that you may wish to review some of those precedence.

REP. D'AGOSTINO (91ST): That's very helpful. In fact, I mean much of what you just articulated, even though as you've noted, this is a special creature, a unique creature, parallels what -- I think what we've been reading in some of the court cases even from the Connecticut Supreme Court with respect to the high burden that the balancing of interests, particularly when it comes to ordering a new election and -- and wiping out, effectively disenfranchising the voters who did vote. The Supreme Court case that I quoted like the name when we started this hearing with respect to balancing of interests, articulated exactly those concerns that you -- that you -- that there's a very high standard when it comes to wiping out an election, and balancing the interest of the people who might have been impacted by a mistake whether negligence or malfeasance versus the thousands of voters who -- who did vote. So it's -- that -- I was unaware of that set of precedence, and thank you for bringing it to our attention.

One of the other things I'm struggling with and I don't want to put you on the spot, but just I've been thinking about because we're gonna give the parties obviously another opportunity next week -- a final opportunity to make any submissions to us -- is -- is the intersection of the different Connecticut Constitutional Provisions. Obviously, we're here because of section 7 -- Article 3, Section 7, each House shall be the final judge of the election returns and the qualifications of its members. Section 8 gives us the authority with respect to ordering elections and particular cause

that says then providing for the election of representatives or senators at some time subsequent to the Tuesday after the first Monday of November in all cases when it shall so happen that the electors in any district shall fail on that date to elect a representative or senator.

I've been assuming -- I don't know if this is the case -- I'd be open to your view on this is that our authority to -- I guess that's the question. With respect to those range of options, nothing, new election, something in-between; does that power to order something in that range -- and I mean from section 7 or section 8 or a combination of both? It seems to be 8 to me, which -- which gives us the power to provide for an election subsequent to the Tuesday.

ATTORNEY BLOUSS: My -- my initial instinct is probably both because under section 7, when I say you are the court, that's how I mean it. You are -- you have the authority of the highest court of the state on this particular issue, so if the House orders something, that has the force of law of an order of the Connecticut Supreme Court on an issue that the Connecticut Supreme Court has jurisdiction over.

REP. D'AGOSTINO (91ST): Each House shall be the final judge of the election returns and qualifications of its -- of its members?

ATTORNEY BLOUSS: Right.

REP. D'AGOSTINO (91ST): And then you -- you fold into these considerations on 7 and 8, Section 10, which says that the members of the General Assembly shall hold their offices from the Wednesday

following the first Monday of the January, next exceeding their election until the Wednesday after the first Monday of the third January next exceeding their election, and until their successors are dually qualified.

ATTORNEY BLOUSS: That's correct.

REP. D'AGOSTINO (91ST): Which would seem to indicate to me that -- and I'm not at all -- this is hypothetical. It's always dangerous, right? But if we were to order something else, a new election, in part or in whole, under Section 10, Mr. Young because he has already been given the oath holds that office until his successor is dually qualified, whoever that successor may be.

ATTORNEY BLOUSS: Well, I think there are two different considerations. I -- I understand Mr. Young took the oath on -- whenever it was -- January 7?

REP. D'AGOSTINO (91ST): Uh-huh.

ATTORNEY BLOUSS: I -- I actually don't think that he needed to in order to continue to serve, and -- and not only is that my opinion, that's the Connecticut Supreme Court's opinion because in -- in 1892, the Connecticut Supreme Court refused to consider a challenge by a candidate for governor who sought to replace an incumbent governor who continued to serve after an election in which he was not a candidate. That's the Morris against Bulkeley case. And so Governor Bulkeley served for two years that he was elected to, and then served another two years that he was not elected to because the House did not confirm the election, and so he, because of that language, continued to serve until his

successor is confirmed. He served two extra years in office, so I -- I -- it's -- I don't -- I think it's fine that Mr. Young was given the oath on January 7, but I don't think it changes anything. And either way, frankly, he could have continued to serve had he not taken the oath.

REP. D'AGOSTINO (91ST): I -- I see, and the reason I'm asking these questions is as we're working through this as a committee and trying to figure out are we going to do something on that range; obviously, recommending no change and seating of his -- you know, is self-affecting, but if we were to do something else, it's thinking about what the ramifications of that something else are and what our authority is to do that something else, and the way these particular sections all interweave, I think they all work together.

They all seem to me to work together such that if we were to order something -- a new election, say, and I'm not nowhere near there because of the standards that you articulated, but if there's something in the middle, what happens while that's occurring, and Section 10 would seem to indicate that he would -- again, he stays in that seat until the successor is dually qualified under Article 3, Section 10 of the Constitution of Connecticut.

ATTORNEY BLOUSS: I think that's clearly correct.

REP. D'AGOSTINO (91ST): I'd ask you to take a look at 6 and 7 and 8, and just give us your thoughts on that; again, with respect to the -- the power to order something in that -- in that range and how 8 may or may not compliment 7 there.

ATTORNEY BLOUSS: Okay.

REP. D'AGOSTINO (91ST): I think it does, but I just -- we're open to your views on that.

ATTORNEY BLOUSS: Okay.

REP. D'AGOSTINO (91ST): And I want to put on the record as well that we've -- we've -- this committee has made several entrees to both candidates, we've said if the candidates want to come speak to us, they can come speak to us, counsel certainly has been welcome. We did make that offer to Mr. Feehan, and his counsel couldn't be here today. He is going to submit something to us in writing as I understand it -- Mr. Feehan's counsel -- on Wednesday. We will then -- I want to discuss this with the committee -- give -- give everybody, the town of Stratford wants to submit something. If you would like to submit something else after we get the submission from Mr. Feehan's counsel on Wednesday morning, the committee would take final submissions by Thursday morning at 9?

ATTORNEY BLOUSS: If I can inquire, when would Mr. Feehan's counsel be submitting something if --

REP. D'AGOSTINO (91ST): Wednesday morning at 9.

ATTORNEY BLOUSS: Wednesday morning at 9.

REP. D'AGOSTINO (91ST): 24 hours.

ATTORNEY BLOUSS: Okay.

REP. CANDELORA (86TH): I think what I would recommend --

REP. D'AGOSTINO (91ST): We'll talk about it. We haven't decided just yet.

REP. CANDELORA (86TH): Yeah, I mean I thought we discussed what I would recommend that we have both

parties submit on Wednesday and then final submission from members of the public or anybody including the parties if they want to apply again for Thursday.

REP. D'AGOSTINO (91ST): So if you would like to have something for us to digest on Wednesday, you're welcome to do that as well.

ATTORNEY BLOUSS: Okay. I can try to do that.

REP. D'AGOSTINO (91ST): Yeah. We apologize. We're under a tight timeframe here too, and we know everybody's under the gun, and it gives your 24 hours for a reply, but --

ATTORNEY BLOUSS: Everybody's been under a tight timeframe on this case --

REP. D'AGOSTINO (91ST): Yeah.

ATTORNEY BLOUSS: Since November [Crosstalk] or whenever it was.

REP. D'AGOSTINO (91ST): And so we appreciate the work that you've done and Mr. Feehan's counsel has done and the witnesses certainly coming up for the last couple of days and testifying as well, so.

ATTORNEY BLOUSS: It sounds good.

REP. D'AGOSTINO (91ST): Thank you, Attorney Blouss.

ATTORNEY BLOUSS: Thank you.

REP. D'AGOSTINO (91ST): I appreciate you being here and giving us some more to digest. Anything else for the committee today?

REP. CANDELORA (86TH): Just to clarify on the submittals because my -- my concern is we have a complainant that filed. They are going to be filing

another response on Wednesday. I think we should be clear that we should ask both parties to respond on Wednesday, and give both parties an opportunity to respond on Thursday if they would like just so we have --

REP. D'AGOSTINO (91ST): Absolutely!

REP. CANDELORA (86TH): Equal footing for all.

REP. D'AGOSTINO (91ST): We will. Having just said that on the record, but we will certainly communicate that to the parties and their counsel.

ATTORNEY BLOUSS: Counsel heard.

REP. D'AGOSTINO (91ST): Mr. Young just heard that, so again, anything you want to submit on Wednesday morning by 9, please submit, and then a chance for final submissions on Thursday morning by 9 to this committee through the clerk. And we will make sure that Mr. Feehan and his counsel -- and if -- and if Mr. Feehan says he would like to address this committee in person, we'll take that request and -- and maybe schedule a time. We'll take that under advisement too, but we want to make sure that the parties and their counsel have had every opportunity to submit and present to this committee, and I want to be clear. We've made those offers several times, and that's why Mr. Blouss is here. He was invited earlier in the week, couldn't make it earlier. He's here today. We've made that offer to Mr. Feehan and his counsel, and -- and we're repeating it now with those particular deadlines in mind. Anything else from the committee?

Thank you all. We'll adjourn for the day.