



THE UNITED STATES VIRGIN ISLANDS
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

VINCENT F. FRAZER, ESQUIRE
ATTORNEY GENERAL

February 4, 2014

Ms. Alecia Wells, Chairwoman
Joint Board of Elections
P. O. Box 6038, Charlotte Amalie
St. Thomas, Virgin Islands 00801-6038

Mr. Arturo Watlington, Chairman
St. Thomas / St. John Board of Elections
P. O. Box 6038, Charlotte Amalie
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Mr. Adelbert Bryan, Chairman
St. Croix Board of Elections
P. O. Box 1499, Kingshill
St. Croix, Virgin Islands 00851

Dear Chairpersons:

Enclosed herewith is the result of the investigation done by the Office of the Attorney General of the alleged irregularities of the 2012 elections. This investigation was conducted by members of my senior staff. The findings of the investigation are self explanatory.

I urge the Boards of Elections and the Supervisor of Elections to pay close attention to the errors and missteps that occurred during the 2012 elections and institute measures to ensure we do not have re-occurrence during the very important 2014 election. At this time we do not believe that the errors, omissions and possible misconduct rises to a level of criminal culpability, but we will continue to review the findings for a definitive determination by our criminal division.

If you have any questions you should direct your inquiries to Assistant Attorney General Carol Thomas-Jacobs, Attorney Thomas-Jacobs may be reached at 774-5666 ext. 155.

Very truly yours,

Vincent F. Frazer
Attorney General

cc: Ms. Caroline Fawkes, Supervisor of Elections

**THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE ATTORNEY GENERAL**



**INVESTIGATION OF THE EVENTS OF THE
2012 ELECTIONS**

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2012 Election Investigative Report

The Attorney General, pursuant to his investigatory and advisory powers set forth in 3 V.I.C. § 114, assigned several of his senior staff to conduct an investigation into the November 6, 2012 General Election. The investigation commenced as a result of complaints by members of the public regarding alleged irregularities during the election.

The Boards of Elections

There are two election districts in the Virgin Islands – the St. Croix District and the St. Thomas/St. John District.¹ Each district has a board which has oversight responsibilities over the conduct of elections in its district.² Each district board has seven members who are elected by electors of each election district.³ The St. Thomas/St. John District Board has two members who are residents of St. John.⁴ The quorum for each district board is a majority of its members.⁵ The members of the St. Croix District Board during the 2012 Election were – Rupert Ross, Jr., Anita Davila, Adelbert Bryan, Carmen Golden, Lisa Harris Moorehead, Dodson James and Raymond Williams. Rupert Ross, Jr., was the Chairperson of the St. Croix District Board. The members of the St. Thomas/ St. John District Board during the 2012 Election were Alicia Wells, Larry Boschulte, Lorna Thomas, Collette White-Omarro, Harry Daniel, Claudette George and Wilma Marsh-Monsanto. Alicia Wells was the Chairperson of the St. Thomas/St. John District Board. The district boards together form the Joint Boards of Elections.⁶ Rupert Ross served as the Chairperson of the Joint Boards of Elections. The Joint Boards is the policy making body of the Virgin Islands Election System.⁷ During the 2012 election cycle, John Abramson, Jr., served

¹ V.I. Code Ann. tit. 18 § 41(a).

² V.I. Code Ann. tit. 18 § 46

³ V.I. Code Ann. tit. 18 § 41 (b)

⁴ V.I. Code Ann. tit. 18 § 41(b)

⁵ V.I. Code Ann. tit. 18 § 41(h)

⁶ V.I. Code Ann. tit. 18 § 47(13)

⁷ V.I. Code Ann. tit. 18 § 4

as the Supervisor of Elections in the Territory ("Supervisor"). The Supervisor serves at the pleasure of the Joint Boards and is responsible for the day to day operations of the Election System of the Virgin Islands. The Supervisor carries out the mandates and policies of the Joint Boards.

(1) The Re-Introduction of Paper Ballots

At-poll paper ballots were re-introduced as a voting instrument in the 2012 election cycle. In 1984, the Fifteenth Legislature mandated the use of electronic voting machines for all elections and referenda.⁸ However, it was not until the general election of 1986 that the transition from individual paper ballots deposited in ballot boxes to electronic machines which record the voters' preferences of candidates was implemented.⁹ Some twenty-eight years later, in December 2011, the Legislature passed Act No. 7334 which amended 18 V.I.C. § 622 and allowed the use of at-poll paper ballots during the primary and general elections.

Before the re-introduction of at-poll paper ballots as a voting tool on Election Day, the Election System has always utilized some form of paper voting on a limited and restricted scale. Voters who are registered to vote in the Virgin islands but are outside of the jurisdiction or unable to appear personally at a polling place on Election Day because of work, educational pursuits, illness, disability, imprisonment for a non-felony offence, and members of the armed forces may vote absentee on a paper ballot.¹⁰ Also, voters whose registration or eligibility to vote cannot be determined on Election Day are allowed to vote using a provisional ballot, which is a paper ballot, pending subsequent verification of the voter's eligibility. Between 1986 and 2012, absentee and provisional paper ballots were the only forms of paper ballots used in the Territory. Thus, for nearly twenty-six years at-poll paper ballots were not used by voters to select

⁸ See also Election Reform Act of 1984.

⁹ *Stapleton v. Board of Elections*, 821 F. 2d 191, 192 (3d Cir 1987).

¹⁰ V.I. Code Ann. tit. 18 § 661

candidates of their choice. On November 6, 2012, voters were allowed to use either the electronic voting machine or at-poll paper ballots to register their choices for the various offices and boards, and the Hemp referendum.¹¹

(2) Design of Ballots

The ballots used on the electronic voting machines and the various forms of paper ballots used in the 2012 General Election in each district were drafted by the Supervisor. Members of the boards in both districts informed the panel that after the Supervisor drafts the ballots they are sent to members of the boards for review and approval. Only after a quorum of the members of each district board reviews the design and content of the ballots and approves each ballot for its district are the ballots sent to the printer to be printed for use in the election. Members further explained that once the board in each district is satisfied with each ballot for its district, at least four members of the board would approve each ballot by placing their initials on the document. The St. Croix District Board followed the procedure for review and approval of the electronic and paper forms of the ballots used on Election Day. At least four members of the St. Croix District Board reviewed and signed-off on each ballot indicating their approval of the ballots used in the St. Croix District. With respect to the St. Thomas/St. John District, the investigatory team has not been provided with any document which shows that at least four members of the St. Thomas/St. John District Board approved each of the ballots that were used in the General Election in the St. Thomas/St. John District. Although members of the St. Thomas/St. John District Board claim that at least four members approved the paper ballot for the St. Thomas/St. John District, the record reflects that only three members in the St. Thomas/St. John District

¹¹ The Hemp Referendum is beyond the scope of this report.

members approved the paper ballots.¹² All members of the St. Thomas/St. John District Board agreed that a quorum of the Board or a least four members of the Board should have approved the ballots used in the General Election.

Five separate paper ballots were used in this election cycle - Delegate to the U.S. House of Representatives, senatorial seats for the Legislature of the Virgin Islands, Board of Education, Board of Election and the Hemp Referendum. An electronic voting machine ballot which consists of all five categories was also used during the 2012 Election. Although the candidates listed for each office on the paper and electronic ballots were identical, the instructions and design for the electronic ballot and the paper ballots were not in all instances identical. The version of the ballot used on the electronic voting machine allowed for party symbol voting for the Delegate to the House of Representatives while the Delegate to the House of Representatives paper ballots in both districts did not allow for party symbol voting. The Supervisor took the position that it is immaterial whether the party symbol was on the ballot for the Delegate to the House of Representatives since there was only one candidate from each political party on the ballot and the party which each candidate represented was clearly stated on the ballot.

With respect to the paper ballot versions for selection of members to the Board of Education for the St. Thomas/St. John District, there is no symbol for the Board of Education race on the St. Thomas/St. John District ballot but the ballot contains instructions for symbol voting.¹³ The St. Croix District Board of Education paper ballots have no such instruction and contain no party symbol for the Board of Education. There is no symbol voting for the Board of Education candidate on the electronic ballot in either district. The Supervisor acknowledged that

¹² A quorum of the St. Thomas/St. John District Board is a majority of members of the Board of Elections. Four members are required to form a quorum for official Board action. V.I. Code Ann. tit. 18 § 41(h)

¹³ 18 V.I.C. § 492(h) (3) provides that "Ballots for the Boards of Elections and the Board of Education shall not carry a party column."

the ballot for the Board of Education in the St. Thomas/St. John District should not have had instructions regarding symbol voting.

Unlike the ballots for the election of senators to the Legislature and members to the Board of Education, the Board of the Elections ballots in the St. Thomas/St. John District did not visually separate out the St. John resident candidate from the St. Thomas resident candidates. On the Board of Election ballot, both paper and electronic, Alecia M. Wells, a St. John resident, is not separated out of the field of St. Thomas Board of Elections resident candidates. The instructions on the electronic ballot state that a voter should vote for no more than three from the St. Thomas District and no more than one from the St. John District. Because Ms. Wells, a St. John resident, was not separated out from the St. Thomas resident candidates, there was no way to prevent a voter using the electronic voting machine from voting for four St. Thomas resident candidates, as the electronic voting machine would register a maximum of four votes irrespective of the residence of the candidate. If a voter using the electronic voting machine voted for a fourth St. Thomas resident candidate, the vote for the fourth St. Thomas resident candidate would still be counted. On the other hand, if a voter using the paper ballot voted for four St. Thomas resident candidates, that ballot would be deemed spoiled as the voter would have voted for four rather than three St. Thomas resident candidates. The St. John resident candidate should have been separated from the rest of the St. Thomas resident candidates as was done for the ballot of the Board of Education to prevent over voting for the St. Thomas resident candidates on the electronic voting machines and to reduce spoiled paper ballots.

What is particularly unsettling is that the Supervisor and members of the St. Thomas/St. John District Board were aware of the problem but did not correct it. According to one board member, separating the St. Thomas resident candidates from the St. John resident candidates was

raised “plenty of times” but some members believed that it didn’t matter as the instructions were accurate. Fortunately, Ms. Alecia Wells was an uncontested candidate from St. John and her election as a winning candidate was a given. Had there been two St. John candidates, the problem would have had greater repercussions. Additionally, there is insufficient evidence that this design flaw affected the outcome of the election with respect to the St. Thomas resident candidates.

The panel could not determine whether some voters were confused in selecting their candidate of choice for the various offices as a result of the discrepancies and differences noted above in some of the paper and electronic ballots. However, consistency and uniformity in the design and content of paper and electronic ballots are important to ensure that voters are not disadvantaged by using a particular method of voting. To the greatest extent possible, the paper and electronic ballots should be identical. All ballots must conform to the requirements and mandates of Virgin Islands election’s laws and election officials must ensure that the voting instruments used do not thwart legislative intent.

(3) Availability of Sample Ballots

Sample ballots for the electronic voting machines were available to the public before the General Election. Sample ballots for the electronic voting machines were posted at the Election System administrative offices, on the Election System’s website and published in the local newspapers before the General Election. It is not clear, however, whether samples of the paper ballots were readily available to the public before the General Election. The Supervisor took the position that the Virgin Islands Code does not provide for the availability of sample paper ballots

to the public and only electronic sample ballots is required by 18 V.I.C. § 503.¹⁴ The Supervisor noted that over 3000 sample ballots for the electronic voting machine were printed and available to the public. He explained that notwithstanding the Legislature's failure to make provision for the availability of sample at-poll ballots prior to the election, the samples of all paper ballots were available to the public. The Supervisor informed the panel that there were members of the public who requested and received sample paper ballots. One Election System employee in the St. Thomas/St. John District reported that members of the public came in and asked for sample paper ballots and samples were given to persons who requested a sample. She stated that she wrote "sample" on the paper ballots she provided to the public. Sample paper ballots were not posted on the Election System's website, were not sent to various news outlets and were not posted at the polling sites in the St. Thomas/St. John District. Some board members of the St. Thomas/St. John District did not know whether sample paper ballots were available to the public before the General Election. Members of the St. Croix District Board reported that a sample of the electronic and at-poll paper ballots were posted outside of each polling station.

It does not appear that before the 2012 General Election sample paper ballots were readily available or distributed to the public in the same manner as sample ballots for the electronic voting machines. We recommend that sample ballots of all ballots to be used in an election, with "SAMPLE" watermarked throughout the document, be readily available and distributed to the public so that voters can become familiar with the voting instrument before the election. This would not only increase voter confidence in using paper ballots but may help to

¹⁴ Title 18 V.I.C. § 503 provides that "[t]he Supervisor of Elections shall provide facsimile and sample ballots which shall be arranged in the form of a diagram showing such part of the face of the electronic voting machine as shall be in use at that election under the direction of the District Board. Such facsimile and sample ballots shall be either in full or reduced size and shall contain suitable illustrated directions for voting on the electronic voting machine. Such facsimile ballots shall be mounted and displayed for public inspection at each polling place during election day."

reduce voter error or spoiled ballots. If samples of the electronic ballot were available to the public, then samples of the at-poll paper ballot should have been equally available to ensure that voters are not disadvantaged by using a particular voting instrument.

(4) Public Education

Although the district boards and the Election System conducted some public education on the election generally, there was no extensive public education in the Territory before the General Election which focused on educating the public on how to vote using paper ballots or even to inform the public what an at-poll paper ballot looked like. In light of the re-introduction of at-poll paper ballots, greater public education with respect to the use of at-poll paper ballots as a voting instrument was required. Except for the small percentage of voters who may have used provisional ballots to cast their vote in prior elections, most voters for the last 26 years did not use paper ballots at the polls on Election Day. Greater public education may have reduced voter error and increased voter confidence. Public education is critical in any election where new initiatives or voting instruments are introduced. Inadequate public education leads to distrust, lack of voter confidence, low voter turnout and voter error. It is important that election officials engage in extensive public education before the 2014 Election when new voting machines or tabulators will be used.

(5) Funding for Election

Inadequate funding and the uncertainties regarding funding for the General Election were partly responsible for the many of the problems during the election cycle. Because of inadequate funding, the number of polling stations used during the primary election was reduced significantly in each district.¹⁵ With the implementation of two initiatives - the re-introduction of

¹⁵ It was not until May 31, 2012 that legislation appropriating \$150,000 to conduct the primary election was enacted.

at-poll paper ballots and the e-poll books initiative - funding for public education was critical. Election officials pointed out that inadequate funding meant that the boards did not have the resources to conduct extensive public education before the election. Adequate funding of the activities of the Election System and the availability of funds at a reasonable time before the elections is important so that election officials can effectively perform their duties and responsibilities to the public.

(6) Testing/Certification of Electronic Voting Machines

Testing of the electronic voting machines for the General Election began on October 27, 2012, ten days prior to Election Day.¹⁶ Testing of the electronic voting machines in the St. Croix District went relatively smoothly. Members of the St. Croix District Board established a schedule for the testing of the electronic voting machines to ensure that at least two members were present during the testing of each machine and they took turns observing the testing. Board members reported that at least two members were present during the testing of each machine and at least four members signed off on each tape produced after the testing of each machine. Board members observed the testing of the 80 or so machines that were used in the General Election in the St. Croix District and signed 80 tapes of the testing generated from the machines. Final testing and approval of the electronic machines for use in the General Election was completed on Friday, November 2, 2012 in the St. Croix District. St. Croix District Board members also reported that testing and certification of the machines used in the St. Croix District could have been completed within a few days; however, the St. Croix District Board decided to postpone the certification for three days because of the problems in the St. Thomas/St. John District, as the central server is located in the St. Croix District and the two systems have to be integrated.

¹⁶ V.I. Code Ann. tit.18 § 506

In the St. Thomas/St. John District on the other hand, testing did not go as smoothly as in the St. Croix District. The Supervisor and some members of the St. Thomas/St. John District Board explained that one or more of the electronic voting machines had an alignment issue that had to be corrected. Delays in getting a quorum further delayed the final approval of the electronic voting machines in the St. Thomas/St. John District. It was not until sometime after 6:45 p.m. on the evening of November 5, 2012, the day before the General Election, that a St. Thomas/St. John District Board of Elections member on behalf of the Board approved the electronic voting machines for use in the General Election.¹⁷ The delay in the testing and approval of the electronic voting machines created an already growing distrust by certain groups in the community of the electronic voting machines. Based on the interviews with members of the St. Thomas/St. John District Board, several long term members of the Board informed the panel that they do not usually participate in the testing of the electronic voting machines. Unlike in the St. Croix District, in the St. Thomas/John District, members did not observe the testing of every machine. Members only observe the testing of, at most, a sample of the electronic voting machines. Some members do not believe that they are required to observe the testing of each machine. One member stated that because he is not involved in the hiring of the technicians who set up the machines for the General Elections he does not have to participate in the testing. Other Board members took the position that they are not required to observe the testing of each machine. Although it is one territorial election, there is not a uniform method of testing the machines in both election districts. The Joint Board should establish a uniform set of guidelines for the testing and approval of electronic voting machines to ensure consistency in both districts. We believe that the St. Croix District Board's approach to the testing of the electronic voting

¹⁷ In a letter dated November 5, 2012, the Secretary of the Board of Election, Lawrence Boschulte, wrote that a meeting of the St. Thomas/St. John District Board was called to order at 6:45 p.m. and the members present at the meeting voted to have Member Daniel represent the Board at the machine certification.

machines is the better approach as it creates the necessary checks and balances that are so important to engender public confidence in the election process.

Some members pointed out that candidates running for the various offices and members of the public do not usually attend the testing of the machines even though the date of the testing is known to the public way in advance of the event. The calendar of events for the General Election is available at the Election System's office in both districts and on the Election System's website. The public, candidates and board members observation of the testing of the electronic voting machines used in an election is important to allay fears and rumors, which may very well be unfounded, regarding the reliability and capability of electronic voting machines.

(7) Electronic Voting Machines

There are multiple security seals on each electronic voting machine – for example, there are seals on the rear door latch, and seals on the open polls and closed polls buttons. The electronic voting machines used in the 2012 General Election were secured by the Election System before the election. After the machines were transported to the polling precincts, they were guarded by security officers until voting began at about 6:00 a.m. on the morning of Election Day. On the morning of the General Election, election judges or workers broke the first seal to open the machines. With respect to each electronic voting machine used in the General Election, election workers removed the seal on the open polls button and then the machine performed a diagnostic test. An electronic voting machine was only used in the General Election if after the diagnostic test was completed the counter on the electronic voting machine showed a zero count, which means that no vote has been registered on the machine. Each election official present at the polling station then signed the paper tape to certify the zero count on the counter. Once the certification was complete, the voting machine was used in the General Election. A

review of the judges' books¹⁸ show that the electronic voting machines used in the General Election in both districts had a zero count at the opening of the polls and was certified by the elections officials. Once voting was completed at the end of the day, the closed polls seal was removed. The elections officials would then press the polls closed button and the elections results in the memory cartridge would then begin printing on the paper tape. Once the printing was complete, election officials broke the seal for the rear door and removed the memory cartridge and the paper tape from the machine. To close the polls and certify the process, elections official then signed the end of each tape taken from each machine which showed the number of votes executed on the machine. The cartridge and the tape were then bound together with a rubber band and inserted in a bag which was then locked with a key. The bag with the cartridge and paper tape were placed in a police vehicle along with an election judge and transported to the Election System headquarters. The judge for each polling station remained with the bag at all times until the chain of custody was broken by handing the bag and its content to a member of the district board. The investigation revealed that this process was utilized in both districts. The judges' books did not reveal that anything extraordinary or unusual occurred on Election Day with respect to the electronic voting machines. Judges are required to make notation of any discrepancies or problems in judges' book. Judges are also responsible for the administration of the election on Election Day.

The public was able to observe the reading of the electronic cartridges by a live feed from the reading room of each district. There was no evidence that all of the votes cast on the electronic voting machine were not counted. All cartridges used in the Territory must be recognized in the counting because the electronic voting system used in the 2012 election cycle

¹⁸ The judges' books are used by the judges to record activities, problems and issues that arise on election day.

is a unified system and all cartridges must be accounted for before the election can be deemed closed. None of the persons interviewed were aware of any problem with machines that could have disenfranchised a voter and were not aware of any major malfunction of the electronic voting machines that delayed or hampered voting on Election Day. The judges' books also did not reveal any major problems with the electronic voting machines.

(8) Shortage of Paper ballots

The St. Croix District experienced no shortage of at-poll paper ballots. Each of the 14 polling stations in St. Croix received between 100 to 300 at-poll paper ballots and only five polling stations used more than their initial allotted at-poll paper ballots and judges replenished the number of paper ballots before they ran out. All other polling stations had excesses. The St. Croix District carefully tracked the number of paper ballots issued, paper ballot used, and additional ballots requested. It appears that in St. Croix there was fairly accurate planning with respect to the distribution of paper ballots. Alexander Henderson Elementary School was the only polling place that was issued 300 paper ballots. Some 318 at-poll paper ballots were cast at that polling station. Four out of the five polling stations that were issued approximately 100 at-poll paper ballots used less than the 100 at-poll paper ballots that were issued. Members of the Board of Elections in the St. Croix District pointed out that the staff at the election office decided how many ballots would be issued to each polling place. They based their decision on the number of registered voters for each polling place and by applying a standard formula. The staff then discussed the distribution of at-poll paper ballots with the St. Croix District Board.

St. Thomas/St. John District provided a stark contrast. An insufficient number at-poll paper ballots were printed. Board members claim that the Supervisor of Elections decided how many at-poll paper ballots were distributed to each polling station in the St. Thomas/St. John

District. Some members also claim that it was only the Thursday before Election Day that board members were told how many paper ballots were going to be available during the election. One member expressed that in light of the negative “give up the machine campaign” and delay in the testing/certification of the electronic voting machine it should have been anticipated that the number of persons who would use paper ballots would increase. Members further claim that the St. Thomas/St. John District Board through the Chair told the Supervisor that some 1000 more at-poll paper ballots were needed for the St. Thomas/ St. John District. According to the some of the board members, the Supervisor’s response was that the Department of Property and Procurement could not provide that request. In the St. Thomas/St. John District, it does not appear that there were any meaningful discussions as to how to strategically distribute paper ballots, taking into consideration the number of registered voters using a particular polling place and whether a particular polling place had a history of voters demanding paper ballots.

On Election Day, when judges realized that some polling stations were going to run out of at-poll paper ballots, they contacted the Election System office. The Election System office then started copying at-poll paper ballots for use at the various polling stations. The entries of several of the judges at the various polling stations reflect the extent of and frenzy surrounding the shortage of at-poll paper ballots on Election Day. A judge at the Ulla F. Muller (cafeteria) reported that “[m]any voters came requesting paper ballots. We ran out of the senatorial ballot by late morning and I was advised that we would receive some and we would receive a call – informed the voters. Some waited, some opted for the machine eventually and a few walked away.” The judge at the Joseph Gomez School (F-N) reported that the polling station ran out of paper ballots at 9:35 a.m., and a fresh batch of about 50 was received within half hour later. The judge later reported that at 1:45 p.m. the polling station ran out again and received a second set

within 2 hours at 3:36 p.m. The judge requested at-poll paper ballots from Curriculum Center but it too had none. The Deputy Chief of Police went to Eudora Kean to obtain a loan of some paper ballots and was given only 3. The judge also noted that in the absence of regular at-poll paper ballots, provisional ballots were used in 5 instances. The Judge at the Curriculum Center (A-E) reported that the polling station ran out of at-poll paper ballots at 11:00 a.m. A call was made for additional ballots, however, approximately two hours later at 1:05 p.m. no ballots had arrived. Before 9:30 a.m., the judge at the Eudora Kean (G-K) called the election office to get more at-poll paper ballots. Later, the judge reported that she made several calls to the Board of Elections asking for more Delegate to Congress at-poll paper ballots but never received any. The judge was "forced to make some black & white copies." The polling station at Michael J. Kirwan Elementary school (Section 2 – Initials G to M) also ran out of paper ballots during the early hours of voting. Joseph Sibilly School (Bldg.B) ran out of paper ballots at approximately 10:30 a.m. The judge reported that she called the office to request additional paper ballots. Sometime after 4:35 p.m. Julius Sprauve (STJ-1) polling station ran out of paper ballots and had to use provisional ballots. When the provisional ballots ran out the election officials used a few absentee ballots.

There was a clear underestimation in the St. Thomas/St. John District of the number of voters who would use at-poll paper ballots. To alleviate the paper ballot shortage, judges were instructed that if no at-poll ballots were available to allow the voter to use provisional ballots or other forms of paper ballots. An employee of the Election System office reported that on Election Day the office made additional copies of at-poll paper ballots when the office learned that several precincts were running out of paper ballots. She reported that the judges called the election office in advance of running out and their supplies were replenished. According to the

Election System employee, the ballots copied on Election Day were identical to the copies printed by the Department of Property & Procurement, including the same color paper. The Supervisor reported that some 2000 at-poll paper ballots were printed by the Department of Property and Procurement on Election Day when he heard that polls were running out of paper ballots. He also stated that the St. Croix printer printed an additional 1000 paper ballots but the ballots were not needed. The Supervisor noted that workers were instructed that if at-poll paper ballots were not available, they could use some other form of paper ballot. Thus, the Supervisor claims that the Board did have a plan in event of a shortage of at-poll paper ballots. It is evident that the St. Thomas/St. John District was not prepared to deal with the large number of at-poll paper ballots. The swift actions of experienced judges at polling stations certainly helped to alleviate the problem. None of the Board members in the St. Croix or St. Thomas/St. Croix districts who were interviewed were aware of a person who was unable to vote because of the shortage of at-poll paper ballots.

(9) Counting of Ballots

In both districts, votes cast by the way of the electronic voting machine were all counted on the night of the election. In the St. Croix District, the paper ballots and votes cast on the electronic voting machines were counted by precinct. In the St. Thomas/St. John District, the votes cast on the electronic voting machines were counted by precincts; however, the votes cast using paper ballots were not counted by precincts. To count the ballots, the St. Thomas/St. John District Board batched the various types of paper ballots into groups of twenty five irrespective of the polling place where the vote was cast.

The approach used by the St. Croix Board ensures some consistency in the counting process irrespective of the voting instrument used and it allows the Board to use the information

to analyze voting trends, patterns, problems and deficiencies to better plan for future elections.

This type of information is also useful to candidates who may want to know the areas where they are weak or strong so they may decide which group of voters and locale they need to target.

In the St. Thomas/St. John District, the Board did not start counting on the night of the election. On November 7, 2012, Board members and talliers spent approximately four hours batching paper ballots into groups of 25 in preparation for counting. The record showed that the Board with the assistance of talliers counted votes on November 8, 9, 10, 11, 13, 14, 15, 16, and 17, 2012. The election was certified on November 21, 2012. Initially, the counting of the ballots was delayed because board members could not decide the number of persons needed to commence counting, some board members had scheduling conflicts, and members were unsure as to whether a quorum was required to be present during the counting. Based on the statements of several board members, a board member was always present during the counting and a quorum was always present to begin the counting process. Members reported that a review of a disputed ballot was done by at least three board members and a board member was present during all of the counting. Only a few board members participated in the actual counting. Although some may have been present to form a quorum, they did not participate in the counting. In most instances, there were three talliers counting the votes on each ballot. Members of the public were able to view the counting and were allowed in the counting room.

In the St. Croix District, preparation for the counting of paper ballots started on the night of elections. The actual counting of the votes took place on November 9, 10, 11, 12, 13, 14, 15, and 16. Counting of ballots was slow because only the Board could resolve issues regarding the validity of a ballot and determine whether a vote should or should not be counted. In 2009, section 624 of Title 18 was amended and changed the arbiter of a disputed ballot or vote from

inspector or judge to the Board of Elections.¹⁹ Thus, the Board of Elections had to discern voter intent when there was a dispute and had to be present throughout the counting.

All members of the St. Thomas/St. John and the St. Croix District Board uniformly reported that counting paper ballots by hand is a tedious, labor intensive and time consuming task. All board members interviewed also unanimously claims that the counting could not have been completed within 24 hours. In both districts, election judges were hired to assist board members with the counting, sorting and tallying. The tallying of the votes cast by paper ballots is a costly process. The Election System paid each tallier between \$100-150 per day to count ballots. In addition to the talliers, board members were also paid a stipend of \$75 per day. If paper ballots are to be used in the next election, to speed up the counting process, and to ensure greater accuracy and lessen human error, the districts should use some form of tabulator which can scan and count the paper ballots.

(10) Spoiled Ballots

The St. Croix District reported that there were some 562 spoiled at-poll paper ballots most of which pertains to the senate race. According to the certification results for the district of St. Croix there were some 2812 at-poll paper ballots. Thus, nearly 20% of the at-poll paper ballots in the St. Croix District were spoiled. St. Thomas has not provided any summary report, as was done by the St. Croix District, which identified the number of spoiled ballots, although the certification states there were some 888 at-poll paper ballots. The general consensus among members in the St. Thomas/St. John District is that there were many spoiled ballots particularly for the senate race. Samplings of the spoiled ballots were reviewed and it was observed that symbol voting was the major cause of ballot spoilage in both districts. Voters would select a

¹⁹ Title 18 V.I.C. § 624 provides that:

Decisions concerning the validity of any ballots, and the count to be recorded thereon, shall be made by the Board of Elections.

party symbol and then vote for additional candidates which exceeded eight. In other instances where the voter did not use symbol voting, some voters voted for more than eight candidates. Thus ballots, especially for the senate race, were spoiled because of over voting.

It appears that many voters did not understand symbol voting or did not read the ballots carefully. Additionally, paper ballots, historically, tend to have a greater percentage of spoiled votes than the electronic voting machines. Votes could not be spoiled on the electronic voting machine used during the 2012 election cycle, as the machines do not permit votes to be spoiled. Because paper ballots tend to have a greater percentage of spoiled ballots rather than electronic voting machines, public education on how to correctly and accurately vote using paper ballots is even more critical.

(11) Internal Conflict

The public conflict between the Supervisor and his staff and the Supervisor and some members of the boards did very little to build public confidence in the administration of the 2012 Election. The Deputy Supervisor in the St. Thomas/St. John District took medical leave from October 22- November 26, 2012 after the Supervisor recommended her termination to the Joint Boards. She has subsequently resigned from the Deputy Supervisor of the St. Thomas/St. John District post. The Deputy Supervisor of St. Croix has also resigned since the 2012 Election and the Supervisor went on medical leave from November 21, 2012 and has since retired.

The relationship between the Supervisor and some board members in both districts was also tense. Some Board members in the St. Thomas/St. John District reported that the Supervisor did not attend the St. Thomas/St. John District Board meetings and members had to go through the Joint Boards to get any assistance from the Supervisor. Even among members of the boards there has been internal strife. Some members of the district boards have made public accusations

of wrongdoing against other board members. At least one board member has filed a written complaint and a lawsuit against the district board of which she is member. Based on the interviews of members of the boards, it also appears that personality clashes and internal fighting among members of the boards may have delayed some of the activities of the boards during the 2012 election cycle. The public rift between the Supervisor and his staff, the Supervisor and some board members, and the infighting among members of the boards did very little to build public confidence and goodwill in the integrity of the Election System.

The 2012 Election was unusual because of the number of board members seeking re-election or seeking election to the Senate. In St. Croix, two members were running for re-election, one ran for senate, and one member chose not to actively participate in any of the activities of the board. Four out of seven persons on the St. Thomas/St. John District Board ran as a candidate for some office in the primary or general election. As a result, St. Thomas/St. John board members found it difficult at times to make a quorum. Harry Daniel, Collette White-Omarro, and Lorna Thomas were the only members who were not running for an office or board in the primary or general election.

Some members who ran for re-election or other offices during the 2012 Election were unsure, because of potential conflicts of interest, whether they could participate in any board activities. Some members believed they could participate in some board activities but not others. To resolve this uncertainty, the Joint Boards should establish uniform rules or guidelines as to what, if any, board activities members of the boards who are running for re-election or for other offices can participate in so that the District Boards are not hampered in performing their duties. It is incumbent upon the Joint Boards to assert its lawful authority and promulgate uniform rules applicable to both election districts where appropriate.

(12) Complaints

Several complaints were made in writing to the Supervisor and both district boards during the election cycle. No documentation has been provided which shows that the boards or the Supervisor responded to the complaints in writing or addressed the complainants' concern in any meaningful way. The District Boards and the Supervisor should make every effort to respond in writing to each written complaint.

(13) Media Access

There were some allegations that the media did not have access to the counting of the ballots. In the St. Thomas/St. John District, there was no indication that the media did not have an opportunity to observe the counting of the electronic and paper ballots. On election night, the media could and did view the counting through a glass partition from an adjoining room and, during the counting of the paper ballots, the media was allowed access to the counting room. Also, a live feed of the counting was broadcasted on local television stations and the public was able to view the St. Thomas/St. John Board's activities from a live feed on the first floor of the Election System's office in Crystal Gade.

In the St. Croix District, the Board permitted only one representative of the press in the counting room on election night. The Election System staff members in St. Croix had received a number of threats in the period leading up to the General Election. One board member reported that two staff members had received phone calls threatening to do harm to the Election System workers and board members. As a result of the threats, the Supervisor met with Virgin Islands Police Department's ("VIPD") leadership to discuss what action should be taken to ensure the safety of board members and Election System's staff on election night. The Supervisor along with the VIPD decided to put into effect a security plan on the night of the election. The security

plan was prepared by VIPD and approved by top VIPD management and the Supervisor. The security plan was executed on the night of the election. On election night, the Election System provided a 60 x 40 tent with three 60 x 60 monitors that gave a live feed of the counting of the ballots to the public and the media. An area was set aside for the press under the tent. It was reported to the panel that one member of the press took exception to this arrangement. The Supervisor, therefore, went inside the building and spoke to the Board regarding the complaint by the press. The District Chair of the St. Croix District reported that when he arrived at the Election System's office on the night of the election he received multiple complaints from the press that they were being removed from the process. As a result, the Board agreed to allow one member of the press to enter the counting room. A Daily News reporter was escorted into the room and given a seat next to the reader and the counting process began. Some 45 minutes to an hour later, a reporter from another media entity asked why they were being locked out. The District Chair explained to the panel that a decision was made that only one representative from the media could be in the counting room who would then share the information with other media representatives. The Daily News reporter was asked if she was representing all media. She informed the Board that she was only representing the Daily News. The Board decided that it was not fair to other media and, therefore, the Daily News reporter would have to leave. When the reporter went outside of the counting room to talk on her cell phone, the Board closed the door and instructed the Supervisor to bring in another press representative into the counting room. The Board waited until another reporter entered the room to continue the counting process and no ballot was processed or counted in the absence of a reporter. The claim that the media was not allowed to observe the counting of the ballots on election night has not been substantiated. The St. Croix District Board provided a live stream of what was going on in the

counting room and a representative of the media was able to observe the counting at all times.

Also, in light of the threats to the members of the Board and the Elections System's staff, the action of the Board was reasonable.

(14) Election Certification

The election results were certified in both districts on November 21, 2012. Five members of the St. Thomas/St. John District Board signed the certification for the St. Thomas/St. John District and five members of the St. Croix District Board signed the certification for the St. Croix District. The tally sheets in each district for each type of paper ballot, excluding the Hemp Referendum,²⁰ were reviewed and cross-checked with the certification results in each district. The tally sheets detail each vote counted for each candidate for the various offices and boards and should be identical to the total count for each candidate on the certification of the election results for each district. Except for the three candidates identified in the table below, a comparison of the certification results for the senatorial candidates and the tally sheets in the St. Thomas/St. John District shows that the votes reported for each senatorial candidate on the tally sheets and the total votes for each candidate in the certification are identical.

Differences in Vote Reported on Tally Sheets and Certification - Senator & Senator At-Large STT/STJ						
	At-Polls Paper Ballots Cert	Missing At- Polls Paper Ballots Votes	Over Count of At-Polls Paper Ballots Votes	Correct At- Polls Paper Ballots Votes		
Wilma Marsh Monsanto	695		3	692		
Janelle K. Sarauw	136		1	135		
Jodi Hodge	13	2		15		

²⁰ See footnote 11.

The investigators found no differences in the vote count reported in the certification and the tally sheets for the walk-in and mail-in absentee ballots and the provisional ballots. Hence, there appears to be only negligible discrepancies with respect to the certification as it pertains to the senatorial candidates for the St. Thomas/St. John District.

The tables below summarize the results of the analyses of the discrepancies between the votes recorded on the tally sheets and the votes included in the certification for the Board of Elections, Delegate to Congress and the Board of Education candidates in the St. Thomas/St. John District. Based on our review, some 2,965 votes were not included in the certification for the Board of Elections, 499 for the Delegate to Congress race and at least 672 votes were not included in the certification for the Board of Education. As it relates to the Board of Education, the tally sheets show that all votes were not included in the certification. However, it could not be determined exactly how many votes were not included from the tally sheets since some of the tally sheets for the talliers for the Board of Education in the St. Thomas/St. John District were not consistent and, in some instances, do not reflect any attempt by the talliers to verify the count.

Not all of the various types of paper ballots for the Board of Elections, Delegate to Congress and Board of Education in the St. Thomas/St. John District had errors. There are no differences in the vote count between the provisional ballots certification and the provisional ballots tally sheets for the Board of Elections. With respect to the Delegate to Congress, there are no differences in the vote count on the certification and the tally sheets for the at-polls paper ballots and the provisional ballots. The vote count for at-polls paper ballots and the provisional ballots as reported on the tally sheets and in the certification for the Board of Education are identical.

Analysis of Error in 2012 Election Certification of Paper Ballots - Board of Elections STT/STJ District											
	At-Polls Paper Ballots Votes Cert.	Missing At-Polls Paper Ballots Votes	Correct At-Polls Paper Ballots Votes	Absentee Walk-in Ballots Votes Cert.	Missing Absentee Walk-in Votes	Correct Absentee Walk-in Votes	Absentee Mail-In Ballots Votes Cert	Missing Absentee Mail-In Votes	Correct Absentee Mail-In Votes	Provisional Ballots Votes Cert	
Lydia Hendricks	201	167	368	14	174	188	3	69	72	27	
Alecia M. Wells	168	128	296	9	182	191	11	75	86	41	
George Blackhall	64	31	95	9	64	73	4	45	49	8	
Arturo Watlington	217	139	356	11	251	262	12	121	133	43	
Diane J. Magras	253	152	405	3	67	70	5	23	28	14	
Lawrence Larry Boschulte	143	83	226	5	130	135	8	63	71	21	
Jerry Azik Meyers	311	220	531	6	97	103	3	42	45	30	
J. "Bush Tea" Dawson	86	56	142	4	46	50	1	13	14	18	
Harriet A. Mercer	281	214	495	3	90	93	2	35	37	30	
Ada A.F. Hodge	79	57	136	1	41	42	1	21	22	10	
Total		1247			1142			507			

WRITE-IN VOTES - BOARD OF ELECTIONS ST. JOHN				
Write-In Votes for Board of Elections St. John	Write-in Votes Cert	Missing Write-in Votes	Correct Write-in Votes	
Delroy Anthony	36	38	74	
Minnie Mouse		1	1	
Dale Anthony		1	1	
Carmen Wesselhoft		1	1	
Ital		1	1	
Delroy Anthony aka Ital	2	2	4	
Cecil Thomas		1	1	
Ian M. Roach		1	1	
Sewer		1	1	
Wendell Powell		1	1	
Anthony		1	1	
Delroy Richards	1		1	
Arturo Watlington Jr.	1		1	
Don't Know	1		1	
Cheryl Boynes-Jackson	1		1	
Rocky Liburd	1		1	
Velroy Anthony	3		3	
James MaCord		1	1	
Loreli Monsanto		1	1	
Laurel Hewitt-Sewer		1	1	
		Total 52		

WRITE-IN VOTES - BOARD OF ELECTIONS ST. THOMAS				
Write-in Votes for Board of Elections St. Thomas	Write-in Votes Cert	Missing Write-in Votes	Correct Write-in Votes	
Delroy Anthony		4	4	4
Claudette Georges		1	1	1
Roy Howard		1	1	1
Lloyd W. Smith	2	1	1	3
Lavern "Lavie" Slack	1			1
Marilyn Stapleton	1			1
Leslelature	1			1
Ronald W. Belfon	1			1
Mark Stridiron		1	1	1
Jamie Donastorg		1	1	1
H.R. Holdeman		1	1	1
John Ehrlichman		1	1	1
G. Gordon Liddy		1	1	1
Stephanie Scott Williams		1	1	1
Sandra Thomas	1			1
Sandra Thomas-Mason	1			1
Judy Gomez		2	2	2
Donna Christiansen		1	1	1
George Blackhall		1	1	1
David Foy	1			1
Rosalie Ballentine	1			1
Dippy	1			1
Vernon L. Ryan	1			1
Andrew Rutnick	1			1
Mario Francis	1			1
Eboni Donastorg	1			1
Almondo Liburd	1			1
Mytsooko King	1			1
George Blackhall	1			1
Total	17			

Total number of votes for candidates for Board of Elections STT/STJ District after inclusion of missing paper ballots votes							
		Electronic Voting Machine Cert	At-Polls Paper	Absentee Walk-in	Absentee Mail-In	Provisional	Total Rank
	Lydia Hendricks	2219	368	188	72	27	2874 3
	Alecia M. Wells	2386	296	191	86	41	3000 2
	George Blackhall	1206	95	73	49	8	1431 7
	Arturo Watlington	3263	356	262	133	43	4057 1
	Diane J. Magras	913	405	70	28	14	1430 8
	Lawrence Larry Boschulte	2096	226	135	71	21	2549 4
	Jerry Azik Meyers	1499	531	103	45	30	2208 5
	J."Bush Tea" Dawson	609	142	50	14	18	833 10
	Harriet A. Mercer	960	495	93	37	30	1615 6
	Ada A.F. Hodge	772	136	42	22	10	982 9
						* Successful candidates	
	NB: "Cert" refers to the official certification results						
	2,965 votes (1247+1142+507+52+17 missing votes*) were not included in the Certification for the Board of Elections for the St. Thomas/St. John District						
	*See above under various "missing votes" headings						

Analysis of Error in 2012 Elections Certification of Paper Ballots - Delegate to Congress STT/STJ District									
		At-Polls Paper Ballots Votes Cert	Absentee Walk-in Ballots Votes Cert	Missing Absentee Walk-in Ballots Votes	Correct Absentee Walk-in Ballots Votes	Absentee Mail-in Ballots Votes Cert	Missing Absentee Mail-in Ballots Votes	Correct Absentee Mail-in Ballots Votes	Provisional Ballots Votes Cert
Gillaume Mirmoun	IND	29	3	3	6	0	5	5	3
Donna M. Christiansen	DEM	542	172	195	367	13	142	155	88
Holland L. Redfield, II	REP	56	14	23	37	2	14	16	11
Norma Pickard-Samuel	IND	554	29	40	69	0	33	33	54
Warren B. Mosler	IND	110	14	18	32	2	21	23	23
			Total	279			215		
WRITE- IN VOTES DELEGATE TO CONGRESS									
	Write-in Votes Cert	Missing Write-in Votes	Correct Write-in Votes						
Vernon L. Ryan	1		1						
Stacy Plaskett	5	1	6						
Norma Pickard Samuel	1		1						
Stacey Plaskett	3	2	5						
Taetia P. Dorsett	1		1						
Sheri Meyers	1		1						
Lesly Commisong	1		1						
Kalimah M. Joseph	1		1						
Liston Monsanto, Sr.	1		1						
Alicia Wells		1	1						
Basil Ottley		1	1						
		Total	5						

Total number of votes STT/STJ District for candidates for Delegate to Congress after inclusion of missing paper ballots votes							
		Electronic Voting Machine Cert	At-Polls Paper	Absentee Walk-in	Absentee Mail-in	Provisional	Total
Gillaume Mimoun	IND	176	29	6	5	3	219
Donna M. Christiansen	DEM	6510	542	367	155	88	7662
Holland L. Redfield, II	REP	890	56	37	16	11	1010
Norma Pickard-Samuel	IND	1246	554	69	33	54	1956
Warren B. Mosler	IND	812	110	32	23	23	1000
* Successful candidate							
NB: "Cert" refers to the official certification results							
499 votes (279+215+5 missing votes*) were not included in Certification for Delegate to Congress							
*See above under various "missing votes" headings							

Analysis of Error in 2012 Election Certification of Paper Ballots - Board of Education At-Large and STT/STJ District									
	At-Polls Paper Ballots Votes Cert	Absentee Walk-in Ballots Cert ¹	Absentee Mail-in Ballots Cert	Missing Absentee Ballots Mail- in Votes	Correct Absentee Mail-in Ballots Votes	Provisional Ballots Votes Cert			
Board of Education At-Large									
Oswin Sewer	DEM	445	122	28	99	51			
				Total	99				
Write-in Votes Board of Education At-Large									
Ital Anthony		Write-in Votes Cert	1	Correct Write-in Votes	1				
Debra Smith Watlington		1	1						
Gayle A. G Kalloway		1	1						
Elroy Anthony		2	2						
Delroy Anthony		4	4						
Henrietta Warner		1	1						
Spanky		1	1						
Some other Crook		1	1						
Maria Richardson		1	1						
Avery Lewis		1	1						
Alledo J. Francis		1	1						
Ebenzar Scooge			1						
Bill Cosby			1						
		Total	2						

Board of Education St. Thomas/St. John District		At-Polls Ballots Paper Cert	Absentee Walk-in Ballots Votes Cert	Absentee Mail-in Ballots Votes Cert	Missing Absentee Mail-in Ballots Votes	Correct Absentee Mail-in Ballots Votes	Provisional Ballots Votes Cert
Arah C. Lockhart	DEM	440	125	25	107	132	49
Vivica Garfield	IND	241	23	2	29	31	24
Nandi Sekou	IND	627	107	21	71	92	49
Keith E. Richards	DEM	489	125	25	100	125	46
Judy M. Gomez	DEM	614	155	25	137	162	68
Debra Smith-Watlington	DEM	440	142	21	102	123	54
Maria Richardson	ICM	262	21	5	25	30	23
				Total	571		
Write-in Votes Board of Education St. Thomas/St. John District		Write-in Votes Cert	Write-in Votes Cert				
Judy M. Gomez		1	Tina Gillespie Laborde			1	
Debra Smith-Watlington		1	Avis Blackman			1	
Vivica Garfield		1	Jet Black			1	
Maria Richardson		1	Lydia Hendricks			1	
Gayle A. Galloway		1	Someone			1	
Tomorrow's People		1	Sandra Thomas Mason			1	
Rita Howard		1	Lydia Hendrickson			1	
Vernon L. Ryan		1	Benita Martin			1	
Mario A. Francis		1	Dr. Errol L. Connor			1	
LaVerne Slack		1	Claudette L. Georges			1	
Stacy Bourne		1	Karen Blyden			1	

Total number of votes for candidates for Board of Education STT/STJ District after inclusion of missing paper ballots votes						
	Electronic Voting Machine Cert	At-Polls Paper	Absentee Walk-in ¹	Absentee Mail-in	Provisional	Rank
Board of Education At-Large						
Oswin Sewer	DEM	2783	445	122	127	1
Board of Education St. Thomas/St. John District						
Arah C. Lockhart	DEM	3151	440	125	132	3
Vivicki Garfield	IND	907	241	23	31	7
Nandi Sekou	IND	3144	627	107	92	2
Keith E. Richards	DEM	2843	489	125	125	5
Judy M. Gomez	DEM	4285	614	155	162	1
Debra Smith-Watlington	DEM	3134	440	142	123	4
Maria Richardson	ICM	1107	262	21	30	6
* Successful candidates						
NB: "Cert" refers to the official certification results						
<u>At least 672 votes (99+2+571 missing votes*) were not included in Certification for Board of Education</u>						
*See above under the various "missing votes" headings						
¹ The tally sheets for the write-in ballots did not provide consistent totals and in several instances there were no verification of the count by two or three tallies as was done in most instances. Therefore, the investigators could not determine the correct tally. As a result, no "correct" tally was provided in the Report for the absentee walk-in votes.						

NB: "Cert" refers to the official certification results

At least 672 votes (99+2+571 missing votes*) were not included in Certification for Board of Education

***See above under the various "missing votes" headings**

The tally sheets for the write-in ballots did not provide consistent totals and in several instances there were no verification of the count by two or three talliers as was done in most instances. Therefore, the investigators could not determine the correct tally. As a result, no "correct" tally was provided in the Report for the absentee walk-in votes.

The panel was informed that the Election System's office was responsible for preparing the certification document. The Election System, under the direction of the Supervisor, should have had in place a system of checks and balances to ensure the all votes cast and counted are included in the certification of the election results. Additionally, the Board has a duty to ensure that the certified election results are accurate and cannot just rubber stamp the document presented for their approval.²¹ The failure of the Supervisor and the Board to include all the votes in the certification is problematic. Every vote cast must be counted and accounted for in the certification. Despite the errors and after analyzing the missing votes, it has become evident that none of the successful candidates would lose their position even if all of the votes were included in the certification.

As it relates to the St. Croix certification, except for three senatorial candidates identified in the table below, the votes reported on the tally sheets for the at-poll paper ballots were identical to the number of votes for each candidate on the St. Croix District certification.

Differences in Vote Reported on Tally Sheets and Certification - Senator STX					
		At-Polls Paper Ballots Cert	Missing At- Polls Paper Ballots Votes	Over Count of At-Polls Paper Ballots Votes	Correct At- Polls Paper Votes
Neville James		357		5	352
Troy D. Mason		148	1		149
Jamilia A. Russell		899		10	889

²¹ See 18 V.I.C. § 47(9) which provides that the Board of Elections in each District has the duty to "receive from election officers the returns of all primaries and elections, canvass, and compute the returns, and certify, no later than fifteen days following the primary or election, the results thereof to the Supervisor of Elections."

The difference between the certified and the at-poll count is negligible, and would not change the election result for the senatorial candidates. With respect to the walk-in ballots votes for candidates for the Delegate to Congress, Board of Elections, Board of Education and the Legislature, the vote count reported on the certification, for the majority of the candidates, exceeded the vote count on the tally sheets by 1-6 votes. See tables below.

Analysis of Error in 2012 Election Certification of Absentee Walk-in Ballots				
Delegate to Congress STX District				
	Absentee Walk-in Ballots Cert	Over Count of Absentee Walk-in Ballots Votes	Correct Absentee Walk-in Ballots Votes	
Guillaume Mimoun	3		3	
Donna M Christensen	230	5	225	
Holland L. Redfield, II	43	1	42	
Norma Pickard-Samuel	52		52	
Warren B. Mosler	79	5	74	

Analysis of Error in 2012 Election Certification of Absentee Walk-in Ballots				
Board of Elections STX District				
	Absentee Walk-in Ballots Cert	Over Count of Absentee Walk-in Ballots Votes	Correct Absentee Walk-in Ballots Votes	
Lisa Harris Moorhead	158	5	153	
Krista Schulderman	55	5	50	
Ronald L. Moolenaar	111	3	108	
Lilliana Belardo de O'Neal	165	4	161	
Glenn Webster	92	2	90	
Epiphane "Joe" Joseph	69	5	64	

Analysis of Error in 2012 Election Certification of Absentee Walk-in Ballots				
Senator STX District				
	Absentee Walk-in Ballots Cert	Over Count of Absentee Walk-in Ballots Votes	Correct Absentee Walk-in Ballots Votes	
Craig W. Barshinger	223	5	218	
Wilma Marsh-Monsanto	95	4	91	
George T. Cyril	8		8	
Arthur A. Joseph	78		78	
Terrance Positive Nelson	112	6	106	
Michael Springer	45	1	44	
Judi Fricks-Buckley	110	6	104	
Nereida Rivera Oriely	141	3	138	
Diane Capehart	128	5	123	
Luis R. Ayala, Jr.	14		14	
Pedre Pei Cruz	47	1	46	
Carmen B. Cintron	39		39	
Norma George	10		10	
Kenneth L. "Kenny" Gittens	102	2	100	
Wayne "Bully" Petersen	35		35	
Gwendolyn D. Hall Brady	59	1	58	
Samuel J. Baptiste	37		37	
Naomi Sandra Joseph	62	2	60	
Ronald E. Russell	59	2	57	
Neville James	103	3	100	
Troy D. Mason	22	1	21	
Irving Jermaine Julien	3		3	
Eugene F. LaCarbiniere	41	3	38	
George Moore	26		26	
Jay Watson	16		16	
John Michael Canegata	58	1	57	
Myron A. Allick	71	2	69	
Percival Tahemah Edward	28	1	27	
Jamila A. Russell	79		79	
Sherryann A. Wiltshire	8		8	
Samuel Sanes	163	5	158	
Alicia Chucky Hansen	123	4	119	

Analysis of Error in 2012 Election Certification of Absentee Walk-in Ballots				
Board of Education STX District				
	Absentee Walk-in Ballots Cert	Over Count of Absentee Walk-in Ballots Votes	Correct Absentee Walk-in Ballots Votes	
Oswin Sewer	90	1	89	
Cyril Levine	79		79	
Kasaun K. Baptiste	65	2	63	
Martial A. Webster, Sr.	114	3	111	
Mary "Peggy" Morehead	137	4	133	
Winona "Pat" Hendricks	186	5	181	
Terrance T. Joseph	183	5	178	
Jaynae Williams	32	1	31	
Yvonne D. Petersen	75	4	71	

The totals in the columns labeled "Correct Absentee Walk-in Votes" were all clearly stated on the tally sheets for the St. Croix District, yet the certification totals were different. The documents provided to the investigators do not provide any explanation for the differences in the votes on the tally sheets and the certification. These errors, however, would not have affected the outcome of the election results in the St. Croix District. It is incumbent upon election officials to minimize errors in the certification of the votes. In a really close election, a few votes may be significant.

CONCLUDING REMARKS

At the request of the Attorney General of the Virgin Islands, senior staff members of the Department of Justice, which included several attorneys and the supervisor of the Department's Investigation Services, were tasked with the responsibility of investigating complaints as to concerns raised regarding the Virgin Islands 2012 General Election. The investigators reviewed the methods and procedures used by the Joint Boards of Elections and the Boards of Elections for St. Thomas/St. John

and St. Croix and the outcome of the elections that took place in the Districts of St. Croix and Thomas/St. John. During the course of the investigation, the Department of Justice interviewed the members of the Joint Boards of Elections, the members of the St. Thomas-St. John Board of Elections, and the St. Croix Board of Elections. Further, senior staff members of the Office of the Supervisor of Elections were interviewed and election documents and written complaints to the Boards and the Supervisor were reviewed.

The investigation revealed, as is generally known, that in 2011, the Legislature of the Virgin Islands, enacted legislation which allowed for both electronic voting and paper ballots for the primary and general elections in the Territory. Voting by paper ballots had not been generally utilized in the Territory since 1986. The investigation revealed that the mixed method of voting in the General Election, i.e., utilizing both paper ballots and electronic voting within and throughout the Territory, without careful planning, was a process rife with the potential for confusion and allegations of deliberate wrongdoing.

The re-introduction of paper ballots for the 2012 Election was poorly conceived and implemented. Election laws were not amended to put in place the infrastructure necessary for the counting of thousands of at-poll paper ballots in a short period of time. Funding for public education in the use at-poll paper ballots was not sufficient. Sample at-poll paper ballots were not readily available to voters before the General Election. In the St. Thomas/St. John District, there was inadequate preparation and planning by the Election System and the St. Thomas/St. John Board for the many voters who chose to vote using at-poll paper ballots. As a result, many election judges reported that they ran out of at-poll paper ballots during the early hours of voting on Election Day. The Joint Boards did not establish a homogeneous process territory-wide for the use at-poll paper ballots during the General Election. Further, it was found that the counting of the paper ballots throughout the Territory was not uniform.

The errors in the certification of the 2012 Election underscore the need for the Election System and the Board of Elections in both districts to put in place adequate checks and balances to limit errors in the tabulation and certification of paper ballots votes. Any errors in tallying or certification of votes are specifically related to the paper ballots. The Boards of Elections uniformly agree that the manual counting of paper ballots in the 2012 Election was tedious, time consuming, and labor intensive. As the record demonstrates, the counting of paper ballots in the manner used in the 2012 Election took several days, whereas the electronic vote count was completed on the night of the election. This report further demonstrates that the manual counting of paper ballots is prone to human error. The last minute certification of the electronic voting machines, the public disagreements between the Supervisor and his deputies, and the Supervisor and some board members, as well as the internal fights among board members further eroded public confidence in the 2012 Election.

In the end, although the Department's investigation revealed questionable procedures and errors, as noted in greater detail above, the investigators did not find sufficient evidence to conclude that the errors in the certification were deliberate acts or omissions on the part of anyone to defeat any candidate for elected office. With respect to the incorrect tallying of votes, the investigation has reached the conclusion that the difference between the votes on the tally sheets and the certified results would not change the elections result for the senatorial candidates or any other candidates who ran for other offices and boards.

