

The Virgin Islands Consortium

Public Denied Access To Recount, O'Reilly Issues Letter To Attny. General Urging Suspension Of Process

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Senator Nellie Rivera O'Reilly

The St. Croix District Board of Elections has voted to ban public access, including media, to the recount of votes cast for three candidates in the Nov. 4 General Election. As a result, Sen. Nereida "Nellie" Rivera-O'Reilly has issued a letter to Attorney General Vincent Frazer urging him to "order the Board of Elections to immediately stop the recount until the issue of access to the public, including the media, is addressed and resolved."

The board's Dec. 4 decision to ban public access to the recount process is in stark contrast with the lawful access the public gained during the initial counting of the ballots. In fact, just the day before, on Dec. 3, as a *VI Consortium* reporter was exiting the board's conference room following the close of a regularly scheduled board meeting, the reporter inquired and was eagerly assured by several board members that the recount, which would begin the next day, was "always open" to the media and public.

On Dec. 4, the recount process of votes cast for Epiphane Joseph, who made an unsuccessful run for Elections Board membership, along with votes for incumbent Senators Alicia "Chucky" Hansen and Diane Capehart, who lost their seats by significant margins in the Nov. 4 election, was to begin at 1 p.m. at the St. Croix Elections System office.

As members of the media and public assembled in the board's conference room to observe the process--something that had been the norm just weeks before when the ballots were counted for the first time--they were ejected from the room on grounds of a board vote conducted earlier that day based on information brought forward by board member, Rupert Ross, Jr.

As his reason for barring public viewing of the recount, Ross cited Title 18 Chap. 23 Sect. 629 Subsection (d) of the Virgin Islands Code, which states: "The chairman of the board of elections shall designate the specific area of the place of the recount within which the recount will be conducted. Only the candidates whose names appeared on the ballot in the election district, or a specific designee who is to be present on behalf of any such candidate, may remain within the recount area."

However, board members neglected to address Subsection (b) of the same law, which states: "The recount shall be held within 10 days after the filing of the petition and shall be public." Lilliana Belardo de O'Neal, board vice-chairwoman, presided over the vote in the absence of Chairman Adelbert Bryan.

One local attorney said Ross's interpretation of the law is misguided.

"The place of the recount must be made available for the public to view the recount process," said attorney Kevin Rames. "This provision disallows a secret recount."

V.I. Code does, in fact, allow for the ejection of persons "from the recount area or from the place of recount, upon the determination by the chairman of the board or his designee that such person is disrupting the recount procedure." In this case, the public and members of the media were denied access to the room before the recount convened.

In her strongly worded letter to Frazer, Rivera-O'Reilly further stated, "The board's decision is unconscionable and goes against the principles of transparency and fairness. The voters of this territory deserve an election process that complies with the law; anything else results in the disenfranchisement of voters."

As of Friday, the board had completed recounting of early voting ballots, walk-in absentee ballots and mail-in absentee ballots, and had begun counting at-poll ballots. The recount process will continue on Monday, Dec. 8.

Click [here](#) to view Rivera-O'Reilly's letter in its entirety.

