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June 13, 2024

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*Ex officio:*  
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Re: **SEB 2023-025: Second Request for Opportunity for Rebuttal; Request for Hearing under Section 402(a)(2)(E) of the Help America Vote Act of 2002**

Dear Chairman Fervier:

This letter follows up the original letter that we sent to the State Election Board (the “Board”) on May 8, 2024 requesting an opportunity to for rebuttal with respect to the May 7<sup>th</sup> presentation by the Secretary of State (the “SOS”) and its “investigators” on the above-referenced matter (“2023-025” or the “Complaint”). In that letter, we pointed out that it has been the longstanding practice of the Board to allow hearings and the opportunity for rebuttal and included an email from Mr. Ryan Germany, formerly the General Counsel of the Secretary of State’s office, stating that we would be granted an opportunity for a hearing and rebuttal. We are not aware of any other process before any administrative body – in Georgia or elsewhere – where an opportunity for a hearing and rebuttal is not granted. See O.C.G.A. § 50-13-13(a)(1), stating, “(a) In addition to any other requirements imposed by common law, constitution, statutes, or regulations ... (1) In any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice served personally or by mail...” (Emphasis supplied)

In addition, Dr. Janice Johnston of the Board requested that the respondent in this matter provide a technical expert to be present at the May 7<sup>th</sup> hearing and the Secretary of State refused to make its technical expert available. Further, Mr. Edward Lindsey, then a sitting member of the

Board noted that there needed to be an agreement with respect to matters coming out of this matter or he would make a “motion to reconsider” in July. Finally, the Secretary of State continues to refuse to provide the exhibits from its Investigator’s Report that were supposedly presented at the May 7<sup>th</sup> meeting, but which have not been disclosed. We believe that a full hearing on this matter is warranted, with copies of all documents reviewed in advance and opinion from experts as well as “investigation theatre” from the Secretary of State.

Because of the importance of this matter as documented in this letter and the unexplained and quite frankly unlawful time delays we have faced, we are requesting an immediate scheduling of a special meeting for a hearing of this matter as required under both state law and Section 402(a)(2)(E) of the Help America Vote Act of 2002 (HAVA”). We believe that rebuttal time should include an opportunity to provide expert testimony.

We appreciate your prompt consideration of this request. To assist in an understanding of the facts and the issues outlined below, please refer to the reasons set forth below and the enclosed “Factual Response,” which sets forth additional supporting information.

**1. *Rebuttal is a Required Element of any Investigation or “Hearing.”*** As we indicated in our May 8 letter, we strongly believe the SOS and investigators presented erroneous information to the Board – some which was false. In some cases, we felt like there were statements that were misleading or one-sided and required clarification. In other cases, the statements were inaccurate or reflect a complete lack of understanding of the Georgia “voting system” by the SOS and the investigator.<sup>1</sup> We have set out the mistakes that need correcting and rebuttal in the enclosed Factual Response. We stand ready to testify to – under oath -- any documents or statements we have made with back-up from experts and encourage the Board to review these arguments.

Unfortunately, we are skeptical after three years of derisory treatment from State bureaucrats. The enclosed Factual Response discusses Mr. Rossi’s complaint in SEB 2021-181 and the way it was handled. That was a missed opportunity for further investigation into the irregularities that we have uncovered. But it was indicative of the way the SOS has used its power to ignore the substance of the Complaint and dissemble before the Board.

In her responses to the Board, Ms. Charlene McGowan<sup>2</sup>, who was involved in SEB 2021-181, falsely asserted that the Hand Recount came up with a number similar to Election Day results.

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<sup>1</sup> We note two Board members made a motion for reconsideration on May 8. Mr. Clay Parikh, one of our technical experts, had traveled from Alabama to be present at that hearing, assuming that there would be a need for a technical advisor to rebut the clearly misleading statements made by the Investigator, the Secretary of State’s General Counsel, and the attorney representing Fulton County. We assumed the misleading nature of the statements might simply be based on a lack of understanding of the issues and facts. However, the motion for reconsideration was tabled, although Mr. Lindsey said he would vote for it if the agreement of a resolution was not reached by July.

<sup>2</sup> Ms. McGowan is the general counsel for the Secretary of State and was assisting the Investigator in presenting his report. It is not clear if she was also representing Fulton County, but she seemed to be representing the parties we refer to as the “State bureaucrats” who are the accused persons in this Complaint. She is definitely not representing the Complainants or the State Election Board. See Rule 1.7 of the GEORGIA RULES OF PROFESSIONAL CONDUCT AND ETHICS.

That is not true as we try to make clear in the Factual Response. She also stated that she did not know whether the duplicates (discussed below) were counted twice. That is also a false statement to the Board, belied by the fact that Ms. Nadine Williams, the election director of Fulton County, admitted that those duplicate ballots had been counted twice. See Factual Response. This is important because the general counsel of the Secretary of State continues to repeat the lie – repeated over and over again by the SOS and its spokespersons – that the three counts match. They do not. This fact has been established by the Governor’s report which detailed each of the 36 inconsistencies that Mr. Rossi discovered and formally referred to the SEB for investigation. SEB2021-181 was sent to the Attorney General and ended with a consent agreement between Fulton County and the Attorney General.

This pretense of ignorance and diversion from the issues reflects the fact that – two years after we filed the Complaint and three-and-a-half years after the counting in question – there are still no answers to principal questions raised. This is a cover-up, not a real investigation. That is why a professional, independent investigator with qualified resources should review the Complaint and the investigation thus far with full authority to review all documents, including the paper ballots. We recommend the investigator be given a subpoena and a short window – 30 days – to provide a preliminary report. We will make any of our relevant information available to him or her and we assume that Fulton County might even cooperate under subpoena.

We also recommend that the cost of this investigation be imposed on either Fulton County or the office of the Secretary of State. See O.C.G.A. § 21-2-33.1(a)(6).

**2. *A Rebuttal is Needed to Ensure that Corrective Actions Can Be Taken Now.*** We don’t know whether the dissembling was based on a misunderstanding of the facts or an attempt to mislead this Board. But there is now a need for a complete hearing of this Complaint has become urgent – the State is a month closer to the 2024 election and still has not determined how duplicated ballots and missing ballot images were translated into entries in the Cast Vote Record (the “CVR”) in the last election.<sup>3</sup> And further action needs to be taken as soon as possible in order to attempt to alleviate some of these concerns, which will undoubtedly arise again in the 2024 election. There can be no doubt that the upcoming election in 2024 will be subject to many of the same challenges, and many of the same responses by the State bureaucrats.

This letter and the attached Factual Response are made under oath by us and others – ordinary citizens – who have spent years working through these issues. The investigators were not required to be sworn in. All Board testimony should be given under oath.

But the Board should note that the horrific facts in the Complaint had to be researched over long periods of dedication of painstaking collection and review of documents. The Georgia counties cannot do this. The poll managers and election supervisors cannot do this. It takes years to uncover this detail from woefully incomplete and cryptic records– that is one reason why it is critical that these matters be investigated in time for remedial action in advance of the next election.

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<sup>3</sup> We note that these anomalies exist in most of the other counties in Georgia. If the anomalies cannot be explained and addressed in Fulton County, there will be no way of preventing a repeat in future elections.

**3. A Rebuttal is Needed to Correct the False Record Presented.** We have been patient over the two years since we filed the Complaint. We have responded to endless requests for investigation, in one instance on a 48-hour turnaround threat from the Investigators. We have reconfigured the data for the SOS – recognizing that the data we relied on comes from the SOS.

In response the Investigators and State bureaucrats have demeaned the Complainants. Persons related to the State bureaucrats have attacked us on social media and in the press and in public hearings. They have lied about their investigation and the results. We regret having to be so bold, but we cannot think of any other way to call out statements that are wrong or false and borderline libelous, when the State bureaucrats know them to be untrue. Some officials are covering up their own incompetence- have repeatedly argued, as does Ms. Nadine Williams, Fulton County Elections Director, in her cover memo to the Investigator’s complaint that there have been “no instances of dishonesty, fraud, or intentional malfeasance” or, as others have argued, that the counting was “spot-on.” After the last Board meeting – which found violations by Fulton County in connection with the conduct of the 2020 election – Ms. Williams boldly reported the opposite:

“[The SEB meeting on May 7 and 8] concluded ... with the majority of claims *unsubstantiated*. Our staff cooperation throughout the 2020 complaint investigation underscores our commitment to full transparency. We again would like to emphasize the investigation, confirmed the outcome of the November 2020 election and confirm the multiple reports that the county had no evidence of fraud intentional malfeasance or dishonesty.” {emphasis supplied} [Statements of Ms. Nadine Williams to the Fulton County Board of Registration and Elections (May 9, 2024)]

Ms. Williams states in her response to 2023-025 that she was just provided with the complaint in February of this year, which is a “dishonest” and false statement that was twice made. As the Respondent, Ms. Williams was noticed for the December 19, 2023, SEB meeting as this complaint was on the agenda in the “violations found” category slated to be referred to the Attorney General. Ms. McGowan claimed in October of last year that the investigation was complete- which would have certainly required communication with Fulton County.

Perhaps it’s Ms. McGowan who is also making false exculpatory statements. In any case, as the SOS’s General Counsel Ms. McGowan has an undeniable conflict of interest which she has established by closing an investigation into the Secretary of State which was initiated by the former Chair, retired federal judge William Duffey. Her advocacy continues as she has taken the unprecedented step of injecting herself into the investigation and presentation of SEB2023-025. McGowan has gone so far as to dismiss, excuse and ignore all manner of Fulton County’s election law violations.

In fact, that was not a fair summation of the last Board meeting, which found Fulton County in violation of at least two of our three original counts. The attached Factual Response establishes why the facts show dozens of serious violations by Fulton County (and/or the SOS).

Our Complaint has not to date discussed the intentions of the actors, but on the facts surrounding the three counts:

(1)	the initial count – where confirmed ballot images were missing or the sha files were deleted (only 16,034 ballot images from absentee have sha-files to support the Initial Count)	<b>528,777 ballots cast</b> – 380,459 deleted; 148,318 ballot images preserved; 132,280 without .sha authentication files; 16,038 total verifiable ballot images from the Nov. 3 <sup>rd</sup> count.
(2)	the Hand Count	<b>521,342</b> , the number determined after deducting the 6,693 fraudulently added (as confirmed by the Governor and the Board) from the reported 528,035.
(3)	the “second” machine count – which was the count needed to verify the first count	<b>506,948</b> , after deducting 17,852 and the 3,125 <sup>4</sup> known duplicates from the reported 527,925

Nothing comes close to matching. There are many other problems in Fulton County identified by Mark Wingate and Dr. Kathleen Ruth (of the Fulton County Board of Registration and Elections) and others – no validation of mail-in ballots, no signature verification, no L&A testing for Advance Voting, L&A testing for Election Day voting machines performed by the Elections Group and Dominion staff behind closed doors, L&A test ballots were counted and included in the results, “fabricated” ballots with no provenance, etc. The Complaint does not deal with those issues, although the Board should. The Complaint dealt with very specific counting problems that highlight failures in Fulton County – and maybe in other counties. This Complaint is about following the facts – pure and simple – and the violations of law:

COUNT 1: DUPLICATE BALLOTS: Were ballots counted more than once?

(The answer from Ms. Williams seems to be “Yes.” Ms. McGowan equivocated.)

COUNT 2: MISSING BALLOT IMAGES: Were there results in the Cast Vote Record attributed to ballot images that are missing? Can the corresponding paper ballots be consulted to determine if they exist?

(The answers so far seem to be “Yes” and “No.”)

COUNT 3: FAILURE TO FOLLOW GEORGIA LAW FOR TABULATION AND CERTIFICATION: Is there evidence to support the inclusion of votes from 10 tabulators initially reported as non-existent?

(Considering that the records provided by Fulton County show serial numbers that match those of other tabulators, this must now be expanded to all advance voting tabulators.

The answer so far seems to be unlawfully. At the very least the evidence shows hundreds of violations of law and regulations with respect to just these 10 tabulators.)<sup>5</sup>

<sup>4</sup> Actually, we now know of 3,930 duplicate ballots in Fulton County, an increase of 705 from the last count, and have the ballot images and numbers available upon request. See the example in Exhibit A.

<sup>5</sup> The Investigator’s Report discusses a fourth part of the Complaint, which involved Ryan Macias, an employee of The Elections Group, a partisan organization that took control of the Fulton County elections processes in the 2020 general federal election. A footnote in the original Complaint noted that the position of Mr. Macias would be the subject of a subsequent complaint, but that subsequent complaint was never filed. While Mr. Macias had no business having the authority he had with respect to the 2020 election, the Complaint filed on July 8, 2022 did not include that as part of the three major components of the Complaint.

The attached Factual Response demonstrates why it is important to understand the facts that were not in evidence at the May 7<sup>th</sup> Board meeting.

4. ***A Rebuttal Is Needed to Assure the Public of the Truthfulness of the Statements that Our Elections are Fair and Our Processes are Transparent.*** Elections determine the winner in an election contest, of course, but they do more. Elections serve to legitimize the authority of the government. Elections create data that is used to show trends, develop future candidates and campaigns, and inform government policy. It is important that the data be accurate and perceived as being accurate. That is why the Legislature has created the State Election Board.

A [recent poll](#) found only 47% of Republicans have confidence that the 2024 election will be fair. Independents poll slightly higher, and 87% of Democrats express that confidence. If this Complaint is swept under the rug like all our other complaints, and the complaints of so many others, we believe the citizens of Georgia will have well-founded reason to be concerned about the upcoming elections. It is the duty of this Board to investigate these charges (O.C.G.A. § 21-2-31) and the Secretary of State representatives have not reflected a real investigation – or even an understanding – of the Complaint.

#### **SUMMATION OF ATTACHED DOCUMENTATION**

We have compiled selected facts in the Factual Response as a means of sorting through the confusion created by the Investigator’s Report. Our Complaint focused on four categories of elections which we will identify as:

- COUNT 1 – DUPLICATE BALLOTS;
- COUNT 2 – MISSING BALLOT IMAGES & RECOUNT RECONCILIATION
- COUNT 3 – SURREPTITIOUS TABULATION PRACTICES

There are different questions with each of them, but they all share common questions.

- A. Do facts support the allegations in the Complaint?
- B. What was the cause of the alleged failure?
- C. What should be an appropriate remedy?
- D. How can this conduct be deterred or prevented in the future?

There may be other follow-on questions, such as whether human intervention caused the failure or anomaly and whether the intention of the human actor can be discerned. We will assume for purposes of this request for hearing and rebuttal that the basis for these anomalies was gross incompetence and not malfeasance and are not now requesting an investigation into the intentions of the management of Fulton County’s election department workers who created this mess.

#### **COUNT 1 – DUPLICATE BALLOTS**

With respect to Count 1 (duplicate ballots), the attached provides the answers we understand to have arisen from the joint presentation by the Investigator, the Secretary of State’s

general counsel, along with Fulton County, speaking through its attorney.

A. **Do facts support the allegations in the Complaint?** Fulton County agrees that ballots were scanned and counted more than once. Ms. McGowan seemed not to understand that the duplicate ballots were ballots that were reflected in the CVR, which is the electronic record of the count. Ms. Williams acknowledges that the ballots were actually counted twice – a fact that should horrify any reasonable observer.

We are equally horrified that ballots could be counted twice -- *ever*. How could this happen? Counting a ballot a second time disenfranchises another voter. Why is this not being taken seriously? One person, one vote, Mr. Chairman. This is not calculus.

Further, while at the time we filed our formal complaint – July 8, 2022, we were aware that 3,125 ballots had been counted twice in the Recount, we now have identified more ballots that were counted twice – at least 3,930. Identifying duplicates amongst the many ballot images requires painstaking effort and some duplicates may have been overlooked in the process. Exhibit A to this letter shows two ballots images that were the same image counted twice. The ballots are the same, with the exact same markings, but they have two different file names in the CVR in two different batches. How could this happen?

We leave that to a real investigator. As we can see from the dismal performance of Fulton County at the May 7<sup>th</sup> meeting, it is not going to investigate itself and the SOS investigation has failed to provide answers – only excuses. Gabriel Sterling has falsely assured the public on many occasions that no ballots have been duplicated. We think Exhibit A proves the contrary.

How can it be that duplicates are counted?

Are rogue poll workers pulling favorable ballots from different batches to create new batches and then scanning them a second time?

Are select ballot image files being duplicated electronically and then slightly altered?

Are results being inserted into the CVR without ballot images?

Why are State bureaucrats trying so hard to deny these errors exist? (Never mind, we think we know the answer to that one.)

The Board may need to take emergency action to ensure that this cannot happen again.

B. **What was the cause of the alleged failure?** Ms. Williams attributed the input of duplicate ballots to “human error, or fatigue, or process error.” Presumably “human fatigue” refers to the fact that fatigue may cause human error, but that cannot explain how multiple ballots were counted twice. The need for process improvement might be a legitimate cause, but Ms. Williams does not explain how there could have been a process that involved scanning a scanned ballot a second time. This issue may require further investigation to determine if it was caused by “dishonesty, fraud, or intentional malfeasance” that Ms. Williams says does not exist. Without further investigation, we cannot know whether the errors may have been caused by one of those three factors.

C. **What should be an appropriate remedy?** The standard operating procedures (SOPs) proposed as a remedy will not remediate the issue, assuming the issue is simply the need for process improvement. Without a paper audit trail, there is no way of excluding dishonesty, fraud, or intentional malfeasance as a cause of scanned duplicate ballots in the CVR. We suggest that Fulton County provide a paper audit trail for each step in the election process, as required by the HAVA, the Election Code and the State Election Board regulations. HAVA requires a paper audit trail (a “permanent paper record with a manual audit capacity”).

Even so, depending on the outcome of even a quick independent investigation, the Board may want to impose penalties as a proposed remedy as well as corrective action to ensure that duplicate ballots are not counted in future elections. We also suggest that the cost of an independent investigation into this Complaint be billed to the violator, Fulton County, as authorized by O.C.G.A. 21-2-33.1(a)(6), or possibly to the Secretary of State’s office, since the incomplete work from that office necessitates more work.

D. **How can this conduct be deterred or prevented in the future?** This conduct can only be deterred or prevented in the future if there are serious consequences for the counting of duplicate ballots. A duplicate ballot disenfranchises another vote and should be treated as a serious matter, not in the desultory manner of Ms. Williams’ 4-page memo explaining nothing and proposing no concrete solutions. A paper audit trail is already required by HAVA, the Elections Code and the Board’s regulations, but those laws and rules appear not to have been followed in Fulton County. To date, there have been no consequences; without consequences, future incompetence and malfeasance will not be deterred.

In addition to following the Code and regulations, in the future a scan of ballot images by a sophisticated software application could identify the ballots, digitize them, and confirm that no duplicate ballots are counted in the CVR. We recommend an investigator make recommendations to be followed to prevent future duplicate counting of ballots.

## **COUNT 2 – MISSING BALLOT IMAGES**

The CVR is the electronic record of the election. It includes a ballot identifier for every ballot cast in the election by the tabulator number on which the ballot was scanned, the batch number for such ballot, and the number of the ballot’s sequence in the sequence in that batch. Thus, for example, the CVR will record a ballot cast on tabulator 742, batch 40, ballot sequence number 96 will be identified as a ballot identifier 00742 00040 000096. We can see Exhibit A contains the same ballot recorded in the Fulton County CVR from tabulator 742, batch 42, ballot sequence number 83, identified as 007420\_0042\_000083.

According to the Complaint, based on the CVR reviewed by the Complainants, as well as Dr. Philip Stark of the University of California at Berkely and Dr. Duncan Buell of the University of South Carolina, the CVR includes the results for 527,925 ballots, but there are only 510,073 ballot images. Even with all the duplicates in the CVR (at least the 3,123 in Count 2, but probably 3,930), Fulton County is still 17,852 ballot images short of the 527,925 attributed to Fulton County



in the 2020 general election. This discrepancy has not been explained and is the source of the “missing ballot images.”

Fulton County and the SOS general counsel claim that they have 527,925 paper ballots. All the evidence says that they do not. They cannot produce the ballot images. They cannot produce tabulator tapes. They have deleted the ballot images from the original count. In any court of law, the destruction of documents would lead to an “adverse inference” against the person who destroyed the documents. Where are these 527,925 paper ballots?

The evidence we have presented points to at least 20,977 incorrect ballots, between the duplicates and the missing ballot images. The evidence presented in SEB 2021-181 proves that the 6,695 votes for President of the United States were falsely added to the Hand Recount which do not exist. How can this be evidence of transparency without a hearing to ask these questions or a real investigation? We ask that the Board and an appropriate investigator make the adverse inference against Fulton County for all documents that they should have but do not.

A. **Do facts support the allegations in the Complaint?** There seems to be some confusion created by the Investigator’s report as to whether there are missing ballot images. The Investigator’s report stated that the Investigator had “found” a flash drive with 518,690 ballot images (“Exhibit 11”). But the Secretary of State refuses to allow access to Exhibit 11.

Even so, this is not good enough. There are still missing ballot images. That means there are votes that are being counted in the CVR for which there are no ballot images. And we know the Investigator is not right. In fact, based on prior discovery in the *Curling* litigation, we believe Exhibit 11 contains only 510,073 ballot images that are images of actual ballots cast. The remaining “ballot images” are certain categories of not-cast ballot images.

As we have stated before, Dr. Stark independently confirmed the exact missing ballot images number – 17,852. Now we believe the Investigator has (inadvertently) confirmed that.

The missing ballot images have still not been found, and we believe that – properly understood – the flash drive that Ms. McGowan referenced as Exhibit 11 in the Investigator’s Report would confirm the Complaint, not rebut it, as Ms. McGowan believes. But we need to see Exhibit 11 and the SOS has refused to turn Exhibit 11 over to the Board or the Complainants for review. This is unacceptable -- and unlawful. An independent investigator could help determine the truth. But if there are no ballots images, then the only alternative is to access the paper ballots.

B. **What was the cause of the alleged failure?** The explanations given by Richard Barron to the Board of Registration and Elections does not correctly identify a mechanism for why there were missing ballot images. To our knowledge, no one has asked this question because the Secretary of State, Fulton County, and the Investigator have spent all their time trying to say that ballot images were not missing. These parties should bear the cost of further and more complete investigation.

It is remotely possible that there are paper ballots to support the existence of these votes.

We don't think so; the dissembling and lack of disclosure creates an adverse inference supporting our belief. We do not understand the reticence of Fulton County or the Investigator to access the paper ballots and find the ballots or investigate further to understand how the 17,852 votes were added to the CVR with no ballot images to support those votes.

C. **What should be an appropriate remedy?** What do we do about these anomalies? In this case, we know that 17,852 votes are in the CVR for which there are no ballot images. Those votes should be excised from the CVR. The State Election Board has the power to do that under O.C.G.A. § 21-2-31(9). After a proper investigation, the matter should be referred to the Attorney General to prosecute those persons responsible for this and consideration should be given to prosecution of any persons found to have engaged in the cover up that has prevented this matter from being identified in the last three and a half years. If documents have been withheld or altered, such conduct should be referred to the Attorney General for further prosecution under O.C.G.A. §§ 21-2-585, 586, 589, *inter alia*.

D. **How can this conduct be deterred or prevented in the future?** The conduct cannot be deterred without a clearer understanding of how it occurred and appropriate consequences for any human actors that allowed a false report to be made to the SOS. Certified results should only be reported if the underlying ballot images and tabulator tapes (official returns) match and support those results. This is a serious criminal matter.

We recommend an investigator make recommendations to be followed to ensure that ballot images are verified before being added to the CVR.

### COUNT 3 – FAILURE TO CREATE CHAIN OF CUSTODY RECORDS

With respect to Count 3, it appears that there is more evidence than not that the ten (10) “missing tabulators” were, indeed, missing. It may be that the flash cards were used on some tabulating machine someplace, and it may be that the votes on those “tabulators” reflect actual votes. But we can never know because the provenance cannot be traced through a valid paper audit trail, as required by the Code, regulations, and HAVA.

A. **Do facts support the allegations in the Complaint?** The Election Code and the regulations adopted under it require documentation at many different steps in the process of receiving and tabulating the counts from tabulators:

	ITEM REQUIRED	Required by OCGA	SEB Regulation
1.	Acceptance Test	21-2-374	183-1-12-.03
2	Serial number matching	21-2-450(c)	183-1-12-.04(4)
3	L & A test Scanner test and Zero Tape	21-2-374(b)	183-1-12-.08
4	Storage log & Receipt Transport manifest		183-1-12-.05 and .06
5	Opening seal number on scanner	21-2-450(a)(1)	183-1-12-.10
6	Opening Zero tape	21-2-374 21-2-450	183-1-12-.10
7	Opening Protective Counter Number	21-2-450(a)(2)	183-1-14-.02(7)

8	Chain of Custody for ballot removals		183-1-14-.02(8)
9	Daily Recap Form		183-1-12-.12(9)
10	Security Seal Number Memory Card		183-1-12-.10(2)
11	Closing Results Tape (Proof sheet)	21-2-455	183-1-12-.12(a)(1)
12	Closing Protective Counter Number	21-2-454 21-2-455	183-1-12-.12(a)
13	Numbered Voter List	21-2-436	
14	Votes recorded	21-2-454 21-2-455	
15	Ballot Recap Form-(Signed)	21-2-483(d) and 484	183-1-12-.12(a)(2)
16	Tape, memory card envelope	21-2-456	183-1-12-.12(a)(4)
17	General Returns Provided by Precincts	21-2-491	
18	Memory card tabulated on correct scanner		183-1-14-.02
18	Consolidated Return sheet	21-2-497	183-1-12-.12(b)(6)
19	Ballot Images	21-2-500	183-1-12-.13(a)
20	Numbered Voter List and Voter Certificates Binder	21-2-436; 21-2-500; 21-2-453, 21-2-454	183-1-12-(2)(a)
21	SHA files	21-2-500	183-1-12-.13
22	LOG files	21-2-500	183-1-12-.13
23	Electronic file Memory cards	21-2-500(a)	183-1-12-.13(a)(b)

Of all of the required documentation for these tabulators, Fulton County has been able to produce only 14 documents. There may be as many as 360 required documents that should be in the Fulton County files, and 346 are missing. As the Factual Response makes clear, even the information provided on those 14 documents often refers to the wrong tabulators.

**B. What was the cause of the alleged failure?**

A proper investigation would interview the person or persons with responsibility for ensuring that a paper audit trail existed. Without such an investigation, we cannot know the cause – or in this case of multiple failures, causes. But at a minimum, Fulton County has not adequately enforced the laws that apply to the collection and retention of documents related to the conduct of an election.

Without a paper audit trail, the entire Election Code is meaningless. This has been acknowledged over and over and we do not expect that there could ever be an audit of any election in Georgia if these issues are not identified, explained, and fixed.

**C. What should be an appropriate remedy?**

The lack of an auditable paper ballot trail undermines the Election Code and all procedures created in the Election Code for having a fair and transparent audit. The persons responsible for the audit trail should be identified and reprimanded – even if that means every poll manager for every early voting location. They have committed serious violations of the Election Code. It seems that there is ample authority to refer this lack of documentation to the Attorney General for prosecution for these violations.

D. **How can this conduct be deterred or prevented in the future?**

As above, this conduct cannot be deterred in the future without a clearer understanding of how it occurred. If it happened because of a lack of instruction, then better training should be implemented immediately. If documents that should have been preserved for the paper audit trail were destroyed, a document retention program should be implemented to ensure the retention of documents for as long as needed and as required by law. A competent investigator or auditor might suggest solutions – such as uploading the paper trails and voter count to a centralized location accessible by the superintendents and the Board and the public – after all there is no private voter information in these records. But it is hard to believe that Fulton County has such little paper documentation when paper documentation is necessary to create the paper audit trail mandated by the Legislature and required for future federal funding under HAVA.

The attached information attempts to provide clarification of the evidence that we have obtained from the SOS and Fulton County. Except for recently discovered matters referenced above, all this information has previously been discussed and shown to the SOS and the Investigator. We look forward to the opportunity to present our evidence in person.

In that regard, we reiterate our request under HAVA that the Board conduct a formal hearing into this matter. As you know, HAVA requires that a grievance filed be reviewed with a formal hearing within 90 days.<sup>6</sup> We have not had a hearing in nearly two years; our complaint has not been addressed by an independent investigation. We have demonstrated that a rebuttal is necessary to provide the appropriate hearing, that it is necessary so corrective action can be taken in the upcoming election, that the relevant facts are disclosed, and that the official record(s) are corrected to reflect true and correct results.

We are presenting this letter by email to each of you, but we are also sending copies to this request to the Board as required by federal and state law by certified registered mail. We look forward to an opportunity in the next few days to obtain Exhibit 11 and complete this hearing before the Board. Please do not hesitate to call or send us an email requesting further clarification. We remain transparent and will provide you with as much information as needed to show that our Complaint accurately states the abysmal state of affairs in Fulton County Elections.

Joseph Rossi

/s/ Joe Rossi

(Signatures to be provided on notarized submission)

Respectfully Submitted,

/s/ Kevin Moncla

Kevin Moncla, and authorized to affix the signature of Mr. Joseph Rossi

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<sup>6</sup> We note that the State of Georgia receives funding from the federal government each year based on a certification that it is compliant with HAVA. We note that Georgia is not compliant with HAVA. We request this hearing as required by federal election law so that Georgia can resume compliance with its responsibilities under that law. Failure of Georgia to comply could also lead to civil or criminal penalties or litigation costs.

EXHIBIT A

TABULATOR: 00742 BATCH: 00040 BALLOT: 000096

TABULATOR: 00742 BATCH: 00042 BALLOT: 000083

FULTON COUNTY  
520-118  
OFFICIAL ABSENTEE/PROVISIONAL/EMERGENCY BALLOT  
OFFICIAL GENERAL AND SPECIAL ELECTION BALLOT  
OF THE STATE OF GEORGIA  
NOVEMBER 3, 2020

**INSTRUCTIONS:**  
**To Vote:**  
1. Use black or blue ink to mark the ballot.  
2. Completely fill in the empty oval to the left of the candidate name or choice in all races you wish to vote.  
3. If voting for a Write-In candidate, completely fill in the empty oval to the left of the Write-In selection, then write the name of the write-in candidate in the space provided.  
**Write-In:**  
Do NOT use red ink or felt tip pen to mark ballot.  
Do NOT circle, underline or mark through choices.  
Do NOT use check marks or X to mark ballot.  
Do NOT mark more choices per race than allowed.  
Do NOT sign, cut, tear or damage the ballot.

**If you make a mistake or change your mind on a selection:**  
A. Do not attempt to mark through the selection or attempt to erase. Write "Spilled" across the ballot and across the return envelope.  
B. Mail or return the spoiled ballot and envelope to your county board of registrars. A new official absentee ballot will be mailed to you.  
**If you decide to vote in person:** Surrender the ballot to the poll manager of an early voting site within your county or the precinct to which you are assigned. You will then be permitted to vote a regular ballot.

\*Understand that the offer or acceptance of money or any other object of value in case of any particular candidate, list of candidates, issue, or list of issues included in this selector constitutes an act of voter fraud and is a felony under Georgia law (O.C.G.A. 21-2-304(a), 21-2-305(a) and 21-2-305(d)).

<b>For President of the United States</b> (Vote for One) <input type="radio"/> Donald J. Trump - President Michael R. Pence - Vice President (Incumbent) Republican <input checked="" type="radio"/> Joseph R. Biden - President Kamala D. Harris - Vice President Democrat <input type="radio"/> Jo Jorgensen - President Jeremy "Spikie" Cohen - Vice President Libertarian <input type="radio"/> <b>Write-In</b>	<b>SPECIAL ELECTION</b> <b>For United States Senate</b> (To Fill the Unexpired Term of Johnny Isakson, Resigned) (Vote for One) <input type="radio"/> Al Bartall Independent <input type="radio"/> Allan Buckley Independent <input type="radio"/> Doug Collins Republican <input type="radio"/> John Fortuin Democrat <input type="radio"/> Derrick E. Grayson Republican <input type="radio"/> Michael Todd Greene Independent <input type="radio"/> Annette Davis Jackson Republican <input checked="" type="radio"/> Deborah Jackson Democrat <input type="radio"/> Janelle James Democrat <input type="radio"/> A. Wayne Johnson Republican <input type="radio"/> Tamara Johnson-Shaely Democrat <input type="radio"/> Matt Lieberman Democrat <input type="radio"/> Kelly Loeffler Incumbent Republican <input type="radio"/> Joy Felicia Slade Democrat <input type="radio"/> Brian Slowinski Libertarian <input type="radio"/> Valencia Stovall Independent <input type="radio"/> Ed Tarver Democrat <input type="radio"/> Kandice Taylor Republican <input checked="" type="radio"/> Raphael Warnock Democrat <input type="radio"/> Richard Dian Winfield Democrat <input type="radio"/> <b>Write-In</b>	<b>For Public Service Commissioner</b> (To Succeed Jason Shaw) (Vote for One) <input type="radio"/> Jason Shaw Incumbent Republican <input type="radio"/> Robert G. Bryant Democrat <input type="radio"/> Elizabeth Melton Libertarian <input type="radio"/> <b>Write-In</b> <b>For Public Service Commissioner</b> (To Succeed Lauren Bubba McDonald, Jr.) (Vote for One) <input type="radio"/> Lauren Bubba McDonald, Jr. Republican <input type="radio"/> Daniel Blackman Democrat <input type="radio"/> Nathan Wilson Libertarian <input type="radio"/> <b>Write-In</b> <b>For U.S. Representative in 117th Congressional District of Georgia</b> (Vote for One) <input type="radio"/> Angela Stanton-King Republican <input checked="" type="radio"/> Nikema Williams Democrat <input type="radio"/> <b>Write-In</b> <b>For State Senator From 38th District</b> (Vote for One) <input type="radio"/> Horacena Tate Incumbent Democrat <input type="radio"/> <b>Write-In</b> <b>For State Representative In the General Assembly From 58th District</b> (Vote for One) <input checked="" type="radio"/> Marie Meza Incumbent Democrat <input type="radio"/> <b>Write-In</b>
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Turn Ballot Over To Continue Voting

FULTON COUNTY  
520-118  
OFFICIAL ABSENTEE/PROVISIONAL/EMERGENCY BALLOT  
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Turn Ballot Over To Continue Voting

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- 2 -	
<p>For District Attorney of the Atlanta Judicial Circuit (Vote for One)</p> <p><input checked="" type="radio"/> <b>Fari Willis</b> Democrat</p> <p>Write-in</p>	<p>Waives state and local sovereign immunity for violation of state laws, state and federal constitutions. House Resolution 1023 Act No. 596</p> <p>"Shall the Constitution of Georgia be amended to waive sovereign immunity and allow the people of Georgia to petition the superior court for relief from governmental acts done outside the scope of lawful authority or which violate the laws of this state, the Constitution of Georgia, or the Constitution of the United States?"</p> <p><input type="radio"/> YES <input checked="" type="radio"/> NO</p>
<p>For Clerk of Superior Court (Vote for One)</p> <p><input checked="" type="radio"/> <b>Cathelene "Tina" Robinson</b> (Incumbent) Democrat</p> <p>Write-in</p>	
<p>For Sheriff (Vote for One)</p> <p><input checked="" type="radio"/> <b>Patrick "Pat" Labat</b> Democrat</p> <p>Write-in</p>	<p><b>STATEWIDE REFERENDUM</b></p>
<p>For Tax Commissioner (Vote for One)</p> <p><input checked="" type="radio"/> <b>Arthur E. Ferdinand</b> (Incumbent) Democrat</p> <p>Write-in</p>	<p>- A -</p> <p>Establishes a tax exemption for certain real property owned by charities. House Bill 344 Act No. 149</p> <p>"Shall the Act be approved which provides an exemption from ad valorem taxes for all real property owned by a purely public charity, if such charity is exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code and such real property is held exclusively for the purpose of building or repairing single-family homes to be financed by such charity to individuals using loans that shall not bear interest?"</p> <p><input type="radio"/> YES <input checked="" type="radio"/> NO</p>
<p>For Surveyor (Vote for One)</p> <p><input type="radio"/></p> <p>Write-in</p>	
<p>For Solicitor-General of State Court of Fulton County (Vote for One)</p> <p><input checked="" type="radio"/> <b>Keith E. Gammage</b> (Incumbent) Democrat</p> <p>Write-in</p>	<p><b>SPECIAL ELECTION CITY OF ATLANTA</b></p> <p>City of Atlanta Homestead Exemption (Vote for One)</p> <p>"Shall the Act be approved which provides a new homestead exemption from City of Atlanta ad valorem taxes for municipal purposes in the amount of \$50,000.00 for each resident of the City of Atlanta who holds real property subject to a written lease having an initial term of not less than 99 years with a landlord that is an entity exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code and who owns all improvements located on the real property?"</p> <p><input type="radio"/> YES <input checked="" type="radio"/> NO</p>
<p>For Fulton County Soil and Water Conservation District Supervisor (Vote for One)</p> <p><input checked="" type="radio"/> <b>Alan Toney</b> (Incumbent)</p> <p>Write-in</p>	
<p><b>PROPOSED CONSTITUTIONAL AMENDMENTS</b></p>	
<p>- 1 -</p> <p>Authorize dedication of fees and taxes to their intended purposes by general state law. House Resolution 164 Act No. 597</p> <p>"Shall the Constitution of Georgia be amended so as to authorize the General Assembly to dedicate revenues derived from fees or taxes to the public purpose for which such fees or taxes were intended?"</p> <p><input type="radio"/> YES <input checked="" type="radio"/> NO</p>	

Turn Ballot Over To Continue Voting

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- 2 -	
<p>For District Attorney of the Atlanta Judicial Circuit (Vote for One)</p> <p><input checked="" type="radio"/> <b>Fari Willis</b> Democrat</p> <p>Write-in</p>	<p>Waives state and local sovereign immunity for violation of state laws, state and federal constitutions. House Resolution 1023 Act No. 596</p> <p>"Shall the Constitution of Georgia be amended to waive sovereign immunity and allow the people of Georgia to petition the superior court for relief from governmental acts done outside the scope of lawful authority or which violate the laws of this state, the Constitution of Georgia, or the Constitution of the United States?"</p> <p><input type="radio"/> YES <input checked="" type="radio"/> NO</p>
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<p>For Sheriff (Vote for One)</p> <p><input checked="" type="radio"/> <b>Patrick "Pat" Labat</b> Democrat</p> <p>Write-in</p>	<p><b>STATEWIDE REFERENDUM</b></p>
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<p>- 1 -</p> <p>Authorize dedication of fees and taxes to their intended purposes by general state law. House Resolution 164 Act No. 597</p> <p>"Shall the Constitution of Georgia be amended so as to authorize the General Assembly to dedicate revenues derived from fees or taxes to the public purpose for which such fees or taxes were intended?"</p> <p><input type="radio"/> YES <input checked="" type="radio"/> NO</p>	

Turn Ballot Over To Continue Voting

# Exhibits

## June 12, 2024

00742\_00040\_000096.tif scanned at: 16:16:55 on 11/30/20.

Scanned on: ICC Tabulator: 742 Batch: 40  
Poll ID: 641 Ballot ID: 476

President of the United States  
Joseph R. Biden (Dem)  
US Senate (Perdue)  
Jon Dussoff (Dem)  
US Senate (Loeffler) - Special  
OVER-VOTE  
Deborah Jackson (Dem) (NOT COUNTED)  
Raphael Warnock (Dem) (NOT COUNTED)  
Public Service Commission District 1  
Robert G. Bryant (Dem)  
Public Service Commission District 4  
Daniel Blackman (Dem)  
US House District 5  
Nikema Williams (Dem)  
State Senate District 38  
Horacena Tate (I) (Dem)  
State House District 55  
Marie Metzger (I) (Dem)  
District Attorney - Atlanta  
Fani Willis (Dem)  
Clerk of Superior Court  
Cathelene "Tina" Robinson (I) (Dem)  
Sheriff  
Patrick "Pat" Labat (Dem)  
Tax Commissioner  
Arthur E. Ferdinand (I) (Dem)  
Surveyor  
BLANK CONTEST  
Solicitor General  
Keith E. Gammage (I) (Dem)  
Soil and Water - Fulton County  
Alan Toney (I)  
Constitutional Amendment #1  
NO  
Constitutional Amendment #2  
NO  
Statewide Referendum A  
NO  
Atlanta Homestead Exemption - Special  
NO

00742\_00042\_000083.tif scanned at: 16:27:53 on 11/30/20.

Scanned on: ICC Tabulator: 742 Batch: 42  
Poll ID: 641 Ballot ID: 476

President of the United States  
Joseph R. Biden (Dem)  
US Senate (Perdue)  
Jon Dussoff (Dem)  
US Senate (Loeffler) - Special  
OVER-VOTE  
Deborah Jackson (Dem) (NOT COUNTED)  
Raphael Warnock (Dem) (NOT COUNTED)  
Public Service Commission District 1  
Robert G. Bryant (Dem)  
Public Service Commission District 4  
Daniel Blackman (Dem)  
US House District 5  
Nikema Williams (Dem)  
State Senate District 38  
Horacena Tate (I) (Dem)  
State House District 55  
Marie Metzger (I) (Dem)  
District Attorney - Atlanta  
Fani Willis (Dem)  
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Cathelene "Tina" Robinson (I) (Dem)  
Sheriff  
Patrick "Pat" Labat (Dem)  
Tax Commissioner  
Arthur E. Ferdinand (I) (Dem)  
Surveyor  
BLANK CONTEST  
Solicitor General  
Keith E. Gammage (I) (Dem)  
Soil and Water - Fulton County  
Alan Toney (I)  
Constitutional Amendment #1  
NO  
Constitutional Amendment #2  
NO  
Statewide Referendum A  
NO  
Atlanta Homestead Exemption - Special  
NO

Factual Response  
To Accompany Letter dated June 13, 2024  
to Georgia State Election Board

## FACTUAL RESPONSE

(ATTACHMENT TO LETTER DATED JUNE 13, 2024 TO STATE ELECTION BOARD)<sup>1</sup>

### COMPLAINT ONE

#### **3,125 BALLOTS SCANNED & COUNTED TWICE**

In the original July 7, 2022 filing of SEB2023-025, Complainants detailed the inclusion of 3,125 ballots which were scanned twice and counted twice for the official Recount of the 2020 General Election.<sup>2</sup> Complainants also provided Investigators with an itemized and detailed spreadsheet specifically identifying the original ballot image and corresponding duplicate ballot image, the identity of the tabulator on which each was scanned, along with the corresponding batch information for all 6,250 ballot images.

At the May 7, 2024 SEB meeting, Ms. Charlene McGowan made several statements which may have sounded plausible, but which simply refuted the Complaint without providing any evidence. She opened with the following statement:

#### **Charlene McGowan:**

*We know that there are not missing votes because we have the paper ballots that document those votes for this election. The paper ballot is the record of the vote. It is the most important document, and it is what is used to tabulate the vote and to tabulate the results. So as long as we have the paper ballot, we have the paper trail that accurately records the voter's choices.*

Ms. McGowan is not correct when she says the paper ballots are used to tabulate the vote or when she says that “we have the paper ballots.” The vote is tabulated at the precinct with the tabulation tapes and the tabulation tapes become the prima facie evidence of the results (O.C.G.A. 21-2-493(h)). Paper ballots can be used in a recount, although there is no mechanism in Georgia law for the recount to supersede the tabulation tapes. In this case, however, Complainants have shown that the recount did not match the ballot images and a review of the paper ballots by an investigator would confirm the otherwise unsupported statements that “we have the paper ballots.”

Of course, the point of the Complaint was to point out all **the evidence in the record demonstrates that the duplicated ballots are not two different paper ballots, but reflect one ballot and an image of a second ballot but the votes have been counted twice.** Complainant's experts have confirmed that and are ready to testify to that effect. The same point was proved in SEB 2021-181. See Exhibit FR-1 for a description of how the Complaint in SEB 2021-181 proved that the Hand Recount results included ballots that were simply not there.

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<sup>1</sup> Please refer to the referenced letter for definitions not otherwise defined herein.

<sup>2</sup> The Complaint identified as SEB2023-025 is available at [Moncla and Rossi Complaint | Download Free PDF | Elections | Science \(scribd.com\)](#).



Factual Response  
To Accompany Letter dated June 13, 2024  
to Georgia State Election Board

Ms. McGowan continued “*we have all of the paper ballots for Fulton County for the 2020 election and we know that because we have counted those paper ballots three times. They were counted in the original tabulation, they were counted by hand in the Risk Limiting Audit, and then they were counted again during the machine recount, which is what is at issue in this case. All three counts confirmed the results of the presidential contest in 2020.*”

This is not correct. As was demonstrated in SEB 2021-181, the evidence proved that the ballots that the Hand Count claimed were counted did not exist. And it misses the point of the Complaint, which alleges that the “duplicate ballots” are, in fact, duplicates and were double-counted in the CVR. And there are not two paper ballots, just two ballot images. An investigator could review the paper ballots to determine if (1) the ballots do not exist, as we suspect, or (2) there are ballots not counted that do exist that were replaced with the ballot images in the CVR.

Finally, Ms. McGowan said the following, which, as already noted, misunderstands the importance of tabulator tapes in the posting of the actual election results:

*So, you will hear a great deal during the presentation about documents such as ballot images, batches loaded reports, and um tabulator tapes and all of those documentation. They are all very important and we expect that the counties will keep those, maintain those, and make sure that they are complete. But it’s important to note that **they play no role in the actual tabulation of results in an election.** Again, those results are determined by the paper ballots, which we have for 2020. [Emphasis added.]*

This is not correct, but since Ms. McGowan believes the paper ballots exist, why has she not examined them or provided them to explain the problem?

On the other hand, SOS Investigator Brunson confirmed the existence of the duplicate ballot images:<sup>3</sup>

**Investigator Brunson:**

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

*While at Fulton County, SOS Investigators observed a total of 3,182 ballot images meeting this description of the 3182 ballot images.*

Investigator Brunson also reported that the current Fulton County Elections Director, Nadine Williams, was charged with managing the Recount under Director Rick Barron. Director Williams explained that the duplicate scans were likely “[the] result of poor batch management” (Id at 5):

*Williams confirmed she managed the recount however Barron was regularly kept informed of everything and all the processes that were established for the recount were established*

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<sup>3</sup> Transcript of May 7, 2024 SEB meeting is available on request.

Factual Response  
To Accompany Letter dated June 13, 2024  
to Georgia State Election Board

*by the executive leadership team and ultimately, he made the executive decisions on how things were to operate and proceed.*

*Director Williams told investigators because the same groups of sequentially ordered ballot images were found in two separate batches, but in a different sequential order, ... it was most likely result of poor batch management during the recount.*

As detailed above, Ms. McGowan and the SOS's investigator confirmed the existence of over 3,125 duplicate ballot images and did in-fact speculate with the Fulton County Elections Director as to how those duplicates were likely produced. Ms. McGowan then states she doesn't know whether the 3,125 duplicate ballot images were counted:

**Charlene McGowan:**

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

Such an assertion by the General Counsel for the Secretary of State after nearly two (2) years of investigation is either disingenuous, grossly negligent, or something else. Setting aside either the gross negligence or willful misconduct for the sake of argument, in each of the 3,125 instances there is only one physical paper ballot that has been scanned twice, thereby producing two ballot images, and two counted votes.

On one hand, Ms. McGowan claims that only the paper ballots are counted, but on the other she says she cannot determine if the duplicate ballot images were included in the tabulated results. Her assertions are at odds with one another as both cannot be true. Fulton County has 6,250 ballot images and votes, but only 3,125 paper ballots. Contrary to Ms. McGowan's assertions, all evidence says these ballots do not exist outside her suppositions.

The fact is that at least the 3,125 ballots that Complainants have identified were scanned twice and counted twice. This is easily corroborated by two (2) records. First, for every ballot that is successfully scanned and counted a ballot image is produced with a unique file name. Included in that ballot image is a page called an "AuditMark" that shows how the ballot was read by the tabulator (the votes which were counted) along with a timestamp detailing when the ballot was physically scanned. From Dominion:

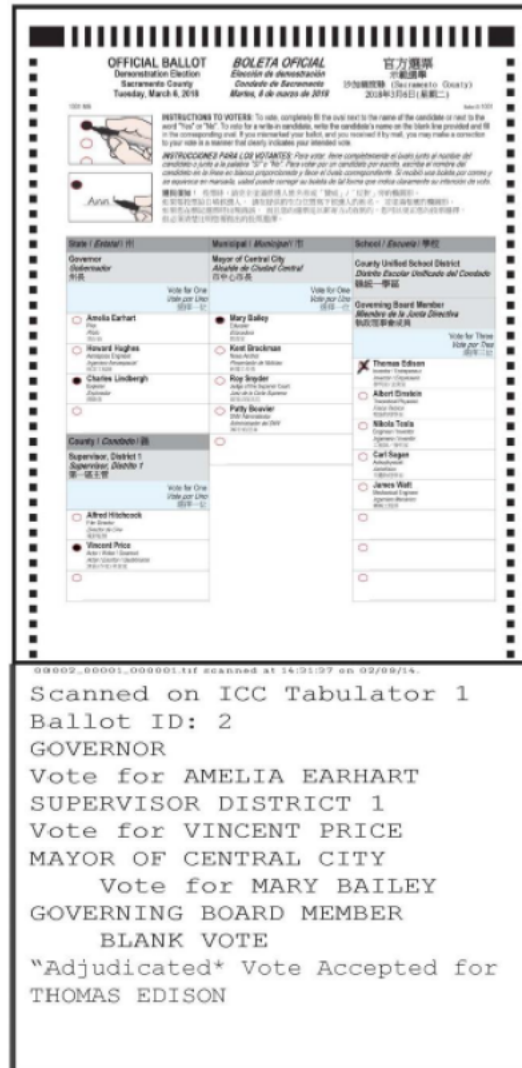
**Audit Mark**

Every single ballot in the election is imaged and appended with Dominion’s patented AuditMark, a record of how the system interpreted the voter’s selections. This ballot-level audit trail allows election officials and other stakeholders to review not only the ballot images, but also the tabulator’s interpretation of each ballot.

Each image is labeled with the tabulator, batch, and sequence number within the batch, which corresponds to the physical ballot in the stack. The AuditMark is appended directly to the image showing how the vote was interpreted at scan time. This AuditMark will also include any adjudications applied to the ballot for voter intent. Even if ballots for a given batch are mixed after scanning, these multiple records provide a way of correlating the digital Cast Vote Record data to the image scanned and finally to the physical paper ballot. While the AuditMark allows ballot-level auditing, it is never tied to the voter.

**Dual Threshold**

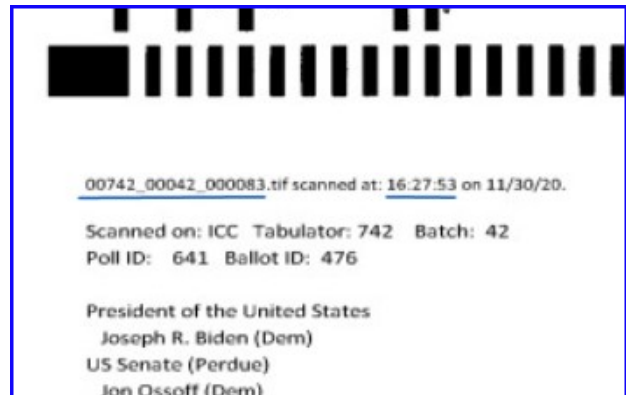
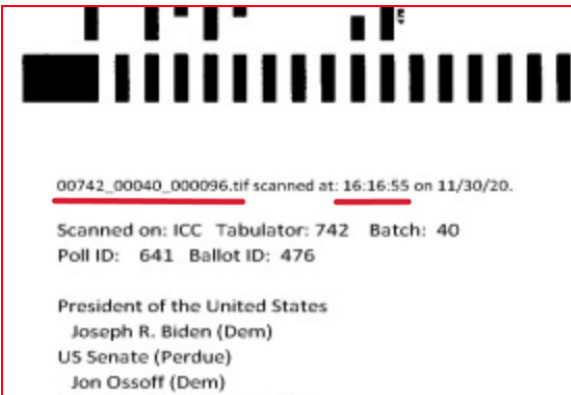
When a hand-marked ballot is scanned by an ImageCast tabulator – at the precinct level or centrally – a complete duplex image is created and then analyzed for tabulation by evaluating the pixel count of a voter mark. The pixel count of each mark is compared with two thresholds (which are customer configurable) to determine what constitutes a vote.



4

[web.archive.org/web/20220210234144/http://seeforyourself.us:8080/displayduplicates.php?cnam=e=Fulton&bid2=00742\\_00042\\_000083&bid1=00742\\_00040\\_000096](http://web.archive.org/web/20220210234144/http://seeforyourself.us:8080/displayduplicates.php?cnam=e=Fulton&bid2=00742_00042_000083&bid1=00742_00040_000096)

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The AuditMark for each ballot (above) reveals another unique characteristic, which is the scan time. The ballot image on the left (00742\_00040\_000096.tif) was scanned at 16:16:55. That exact same ballot was scanned again at 16:27:53, and the ballot image (00742\_00042\_000083.tif) was created and counted, as shown on the right.

Secondly, each of the 3,125 ballots appear twice in the Cast Vote Record (“CVR”) specifically identifiable by filename (red and blue underlined above).<sup>5</sup> During the course of the Board’s investigation, Complainants provided the SOS’s investigator with a spreadsheet specifically identifying each of the 3,125 ballots initial scan and the corresponding *fraudulent* second scan, which the CVR irrefutably confirms **both were counted**.<sup>6</sup> The CVR is the electronic record of each ballot, including all details, ballot style, contest selections (votes), and other information (think of a spreadsheet and each row represents a ballot). There are only 3,125 ballots, but there are 6,250 ballot images, 6,250 ballots cast and 6,250 votes for President counted. The fact that **6,250 ballot images** were counted refutes McGowan’s bold statement that only the paper ballots are counted. **They are not.** The **ballot images** are counted, and scanning a ballot more than once produces the corresponding number of ballot images – and votes, which are each counted.

Additionally, the declaration of Professor Philip Stark (expert and inventor of the Risk-Limiting Audit (“RLA”)) as filed in the *Curling v. Raffensperger* case, states as follows:

<sup>5</sup> [Cast Vote Records Common Data Format Specification Version 1.0 \(nist.gov\)](https://www.nist.gov/cast-vote-records-common-data-format-specification-version-1.0)

<sup>6</sup> Complainants use of the word “fraudulent” to describe the second scan is because a ballot is only valid to be counted once (one person, one vote). In this case, the second scan counted the ballot- and the votes it contained, again.

65. It is nonetheless possible to use the produced images to show that Fulton County's election results included many votes more than once in the reported tabulations. The full extent of this multiple-counting problem cannot be determined without additional discovery, but there is ample evidence that it added thousands of bogus votes to the reported machine-count results. That is, thousands of Fulton County voters' votes were included in the reported totals more than once. From the production so far, it is not possible to determine conclusively whether any voter's votes were omitted from the reported totals.

Professor Stark states that the multiple-counting problem "...added thousands of bogus votes to the reported machine-count results". His declaration was cited and attached by exhibit to the original filing of SEB2023-025. Apparently Ms. McGowan and the Investigators ignored this declaration. Complainants have also referenced declaration of Professor Duncan Buell, also filed in the Curling v. Raffensperger case.<sup>7</sup> Prof. Buell states:

*28. By creating "signatures" for each ballot image available, Coalition Plaintiffs' analysts identified examples of ballot images that appeared to be duplicate and triplicate images of exactly the same ballot and presented them to me for review. While it is infeasible to visually review all ballot images, I reviewed a significant number of images which appear to me to be of duplicates or triplicates of the same ballot. **I can confirm from the cast vote records that these identical ballot images were actually counted in the tabulation multiple times.** (emphasis added)*

*29. This is not a normal expected typical election administration error. It is completely unacceptable for a system to operate in a manner where widespread double and triple-counting of ballots can occur undetected. Certainly this represents a failure of both the post election audit and the certification and canvassing process, although we do not know the root cause of the multiple counts of the same ballots.*

*30. Coalition Plaintiffs analysts currently estimate the vote count effect of the double counted ballots to be approximately 400 additional ballots in the original count and about 3,000 in the presidential recount. These estimates seem reasonable in my view based on*

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<sup>7</sup> Available at <https://www.scribd.com/document/671203484/20220111-Buell-Expert-Report-Final-Served>.

Professor Buell makes a damning conclusion with respect to the General Election in 2020 in Fulton County: "The number of anomalies and discrepancies between the various sets of data provided are too great to assume they are simply the occasional errors made in an enterprise as large as a quadrennial election in Georgia." [p.1].

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*the analysis I have conducted, however it is infeasible to attempt to personally confirm every ballot image suspected of being counted multiple times. Additionally, some 700 estimated duplicates of BMD ballot images that are part of the nearly 18,000 missing Fulton recount images cannot be visibly visually confirmed but reasonable conclusions can be drawn by noting identical characteristics in sequences of BMD cast vote records that indicate that such sequences of ballots were double and triple counted.*

### **Fulton County's Response**

Fulton County provided a response to complaint SEB2023-025 which includes the following as it pertains to the 3,125 ballots scanned and counted twice:

#### *Duplicate Ballot Images*

*This Complaint topic was noted in the:*

- *State Election Board Report – Post Election Executive Summary – January 12, 2021*
- *Performance Review Board Report on Fulton County Elections – January 13, 2023*

***Fulton County Registration & Elections acknowledges that duplicate ballot scans during the recount may have occurred due to human error, human fatigue, and needed process improvements.*** *Standard Operation Procedures have been revised to avoid these reoccurrences, to include, having 2 persons assigned to each scanner to monitor scanning, revised ballot container labeling and container placement. The Secretary of State Investigator review of the possible duplicate ballot images alleged in this complaint do not equate to votes for any one candidate and include undervotes and uncounted overvotes. Even with accounting for this discrepancy, the recount results still confirm the victor determined from Election Night Tabulation and the Risk Limiting Audit/Hand Recount for the November 3, 2020 Election.*

In contrast to Ms. McGowan's assertions, the Fulton County Elections Director, Nadine Williams, concedes the fact that ballots were scanned more than once and counted more than once (albeit reluctantly). She dismisses the "discrepancy" because, in her view, it didn't change "the outcome." Fulton County is only one of 159 counties in the state, and the sole contest at issue for the recount, the office of the President, extends beyond the jurisdictional boundaries of Fulton County. The fact that this error is now known to have occurred in other counties is something that could have been investigated at the time of the election and the recount – if a competent election official were overseeing Fulton County's elections.

Furthermore, her insinuation that counting over three thousand ballots twice doesn't matter because it doesn't change the outcome, is as negligent as it is absurd. Ms. Williams, like Ms. McGowan, somehow fails to see the significance that the double-counting of thousands of ballots represents. The fact that such an egregious number of successive failures were allowed to occur is in-and-of-itself *prima facie* evidence that Georgia's elections *have been* vulnerable to exploitation.

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That the layers of safeguards, checks and balances, and oversight we have been told protect our elections from potential manipulation, do not exist in Fulton County.

Ms. Williams and Ms. Ghazal have asserted that the double-scanning of ballots has already been investigated. The Carter Jones report referenced by Ms. Williams states the following:

*As has already been reported, Secretary Investigators substantiated the allegations that two batches totaling almost 200 ballots were double scanned during the initial count of the November 2020 election.*

The instance of double-counted ballots which was confirmed by SOS investigators and Carter Jones was from the “*initial count*” and only 200 ballots. SEB2023-025 is about the double scanning and counting of 3,125 ballots from the Recount.

Ms. Williams either doesn’t seem to know – or doesn’t care, that for every ballot there must be a voter, and if ballots are counted twice then the number of voters, like the number of paper ballots, **will not reconcile with the results.**

Complainants have only raised the evidence showing the violations of the Election Code already presented. But an investigator – or the Board on its own motion – may want to note that if the paper ballots cannot be found, the voting systems used do not meet the required standards of O.C.G.A. § 21-2-365:

*No optical scanning voting system shall be adopted or used unless it shall, at the time, satisfy the following requirements:*

*(5) A ballot scanner shall preclude the counting of votes for any candidate or upon any question for whom or upon which an elector is not entitled to vote; shall preclude the counting of votes for more persons for any office than he or she is entitled to vote for; and shall preclude the counting of votes for any candidate for the same office or upon any question more than once;*

It appears that Georgia’s ballot scanners (tabulators) are not in compliance with Georgia law as they did in fact count votes from the same elector for the same candidate for the same office more than once.<sup>8</sup> Williams goes on to say...

*“...these numerous inquiries regarding the November 3, 2020, Election, over a 3-year time span, have only served as a distraction to the electoral processes being conducted for current elections”*

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<sup>8</sup> The verified total number of Fulton County ballot images which were counted at least twice for the recount now exceeds 3,930, but was not included in the original Complaint. This problem is pervasive in every county that has been examined in Georgia, and probably tens of thousands of duplicate votes were cast in the 2020 general election.

With the “process *improvement*” SOPs she implemented, included “*having 2 persons assigned to each scanner to monitor scanning, revised ballot container labeling and container placement,*” it is no surprise that Fulton County’s legacy of election problems persist.

In conclusion to Complaint One, and as established by Fulton County’s own election records (ballot images, AuditMark, and CVR), admission by the Fulton County Elections Director, and the declarations of two subject matter experts (analysis of records produced under federal court order), the irrefutable fact is that **at least 3,125 ballot images counted in the 2020 General Election do not exist**. An investigator could ask, or the Board on its own motion could ask, who was disenfranchised by this error? How can it be corrected? Do we really care that we say “one person, one vote?” and most importantly, “Where did the voters for these ballots come from?”

Inarguably there were 3,125 additional votes for which there were no voters; therefore, either 3,125 voters were artificially and unlawfully given credit for voting, or Fulton County failed to perform the statutorily required reconciliation / canvass process. There are no other lawful possibilities.

## **COMPLAINT TWO**

### **17,852 MISSING BALLOT IMAGES**

There are two main issues under the umbrella of what the investigation report calls, “Complaint Two”.

1. Where did the difference from the totals shown in BLR1<sup>9</sup> (on or about December 2<sup>nd</sup> at midnight), to those of BLR2 (as certified on the morning of December 4<sup>th</sup>) come from?
2. The official results for the Recount includes 17,852 recorded votes for which there are no corresponding ballot images.

### **BACKGROUND**

The Recount results were required to be posted in the election management system by 12:00 pm midnight on December 2, 2020. Our Complaint shows that the total number of ballots cast reported that night was 511,543 – short by 17,234 from the November 3<sup>rd</sup> count of 528,777. According to Rick Barron, the SOS directed Fulton County to “reconcile.” Less than twenty-four

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<sup>9</sup> “BLR” refers to the “batches loaded report,” or the upload of the “batch cover sheets” into the election management system. BLR1 was the first recount, which was required to be completed and uploaded by midnight on December 2, 2020. BLR2 was the report after it “reconciled” the numbers – closer to the original count, but without credible justification, as we shall see.



hours later, on December 4<sup>th</sup>, Fulton County certified the Recount results with a total number of ballots cast of 527,925.<sup>10</sup>

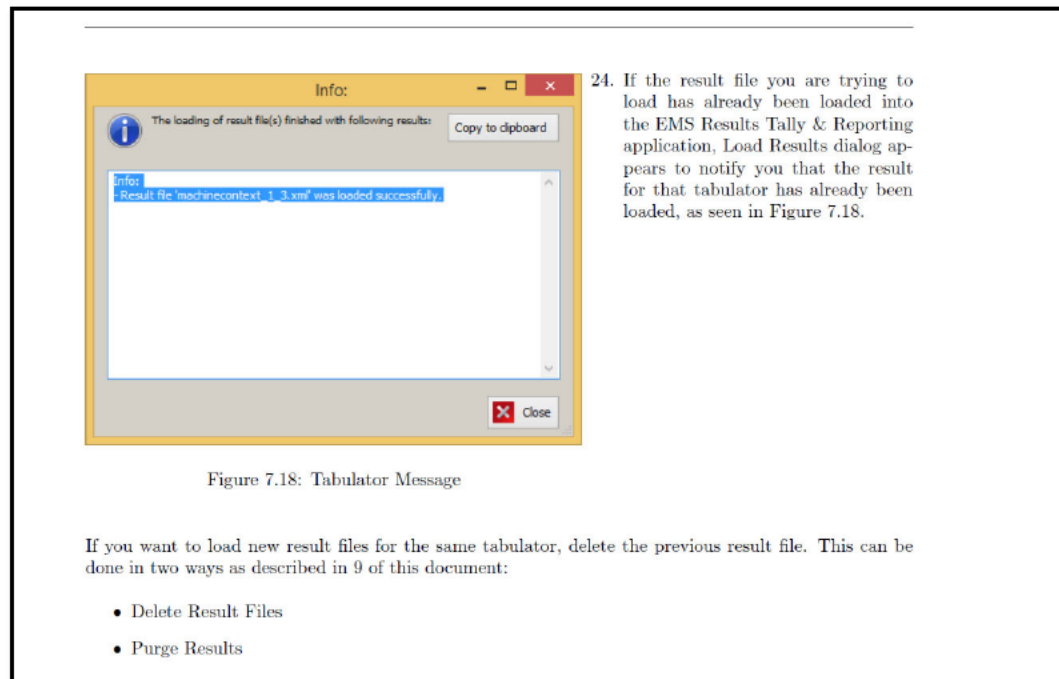
In her written response, Fulton County Elections Director, Nadine Williams, states:

*Upon conclusion of the recount, it was determined that an ICP scanner did not properly upload the recount results due to a duplicate tabulator number. The Dominion Report Tally Reporting (RTR) application is designed to recognize and tabulate results from a single tabulator; hence, **if a tabulator result from ImageCastCentral (ICC) (central scanner) is imported/uploaded for the second time, the RTR will override the first result with the new one, and the batches from the new upload will be published.** **In this case, two scanners were accidentally labeled identically, so when the second ballot results were uploaded, that upload erased the first result upload, leading to a discrepancy in numbers.**<sup>11</sup>*

Ms. Williams direct testimony is that “...if a tabulator result ... is imported/uploaded for the second time, the RTR will override the first result with the new one”. This is direct testimony, not speculation; she describes it again:

*“In this case, two scanners were accidentally labeled identically, so when the second ballot results were uploaded, that upload erased the first result upload...”*

Dominion’s RTR manual shows that this cannot happen on the Dominion systems:



<sup>10</sup> The investigation report erroneously claims that Fulton County certified the Recount results on December 7, 2020. Fulton County certified their results before noon on December 4, 2020.

<sup>11</sup> In the first line above, Ms. Williams mistakenly attributes an “ICP” scanner as being involved with the issue at hand, but no ImageCastPrecinct scanners were used for the Recount. Complainants do not take issue with this and understand that it’s a simple mistake- but note the same as a factual matter to avoid confusion.

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Because of a long history and propensity for disingenuous tactics and excuses by Ms. McGowan and Ms. Williams, Complainants are unsure if her direct testimony is simply wrong or being deliberately deceitful, but she contradicts the Investigator's Report and the interview of **herself**:

*SOS Investigators interviewed Director Williams regarding the BLRs and the uploads to the RTR for the Recount. She reported that certain batches of ballots were initially scanned with an Image Cast Central (ICC) Scanner programmed with the same tabulator and batch numbers, so the RTR interpreted them as one and **rejected scanned ballots as a duplicate batch**. Respondent looked into the cause of the discrepancy, and eventually isolated the discrepancy to the duplicative programming of the ICC scanner.*

Because of the two conflicting statements which are attributed to the same person and are included in the same report, Complainants have to assume that no one really cares about the root cause of this issue. In our view, the cause of the issue is that there are too few ballots to support the vote count.

The Investigators, Ms. McGowan, the Carter Jones report, and Ms. Williams all agree on a factual matter that can be proved to be untrue -- that the tabulator identified as "ICC16", and by Tabulator ID "816" (hereinafter "816") was the sole cause for the shortfall. All claim that the ballots scanned on December 3<sup>rd</sup> were all because of batches and results of the same name for tabulator 816. From the investigation report:

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

Below is an exert from the Carter Jones Report:

- Technological issues abounded during the recount. The server crash on November 29 was a costly error caused by a failure to properly follow protocols for backing up and uploading data to the servers. This mistake cost Fulton taxpayers several days' worth of staff time as the entirety of the ballots had to be rescanned for a fourth time. Additionally, **the small typographical mistake of accidentally naming two scanners "ICC16" on the fourth count led to a great deal of confusion and another full day of staff time for solving the problem.** Fulton technological team must work more slowly, carefully, and in accordance with all protocol to ensure that these mistakes do not happen in the future.

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It is important to note that Carter Jones specifically states, “ICC 16” and that this issue led to “another full day of staff time for solving the problem.”

**This is false. NO batches or ballots from tabulator 816 were removed or rescanned between Batches Loaded Report 1 (before reconciliation) and Batches Loaded Report 2.** We have compared the first and second Batches Loaded Reports. See Exhibit FR-2, which compares BLR-1 and BLR-2. The times of upload for all batches attributed to tabulator 816 remain unchanged and are all before reconciliation on December third. Exhibit FR-3 documents all upload times for tabulator 816. Every batch from tabulator 816 (Early Vote ICC 16) was uploaded and published on 12/2/2020 between 4:25-4:35pm. The batches and ballots cast from this tabulator were included in the first Batches Loaded Report, the results remained unchanged and were not modified from their initial upload from the first to the second Batches Loaded Report.

The 21,798 ballots scanned-in on tabulator 816 (Early Vote ICC 16) were included and unchanged across both Batches Loaded Reports, and **were not** the ballots added between reports to reconcile the vote count.

What has been done here is dangerous and falsely corroborated by many who simply took the word of those in Fulton County. The investigative report literally cites the true and correct number of ballots cast on tabulator 816 (21,798), and then reverses that number from the total. Except the tabulator they cite (816) is the wrong tabulator, and by using the actual number of ballots cast on tabulator 816 to calculate how many ballots needed to be rescanned- is a fabricated and materially false representation.

With regard to “Complaint Two” and tabulator 816, there are thousands of ballot images missing for results attributed to tabulator 816. There are also over one third of the duplicate ballots attributed to tabulator 816. But the results and scans for 816 were uploaded on December 2<sup>nd</sup> and were in BLR1.

In summary, the 16,000-plus ballots/votes which were added between December 2<sup>nd</sup> and December 3<sup>rd</sup> at midnight, are not from the source Fulton County and Ms. McGowan claimed, and not for the reasons submitted.

### **COMPLAINT THREE**

#### **“MISSING” 10 TABULATORS**

The investigator’s report oversimplifies the Complainant’s allegation regarding ten advance voting tabulators that Complainants were told (by Fulton County) “do not exist” in a response to a third open records request.

The Investigator also states:

*Complainants thus concluded that no documentation for the 10 advanced voting tabulators exists and that no documentation of the balance tabulated on those scanners exist. It is*

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

The investigator (or Ms. McGowan?) is incorrect. The poll tapes don't merely "serve as a paper back-up to the memory card". The statute defines the poll tapes as the **official returns**:

**Georgia Code § 21-2-483**

The official returns of the votes cast on ballots at each polling place shall be printed by the tabulating machine. The returns thus prepared shall be certified and promptly posted. The ballots, spoiled, defective, and invalid ballots, and returns shall be filed and retained as provided by law.

Fulton County is not missing "paper back-ups", but the ***official returns*** for the ten tabulators in question.

The documents provided as exhibits to the investigative report presented on May 7, 2024 which were purported to serve as evidence that the 10 tabulators in question did exist, provide evidence that the opposite is true. The 10 tabulators at issue are:

AV-East Point Library ICP3  
AV-So Fulton Srv Center ICP3  
AV-Wolf Creek Library ICP4  
AV-Park Place at Newtown ICP3  
AV-Northeast Library ICP3

AV-Ponce De Leon Library ICP3  
AV-Johns Creek ENV Campus ICP2  
AV-State Farm Arena ICP 3  
AV-State Farm Arena ICP 10  
AV-State Farm Arena ICP 11

Fulton County provided Zero tapes for some, closing tapes, and recap sheets for others, but did not provide both an open and close tape for any. The ones provided are also problematic. For example, Fulton County provided an "Open" or "Zero" tape for the tabulator identified as "AV-East Point Library ICP3". Shown below is the top and bottom of the tape provided:

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**AV EAST POINT LIBRARY ICP3**

Voting Location	
AV-East Point Library	
Report Printed	
Oct 28/2020 15:18:17	
-----	
Unit Model:	PCDS-320C (Rev 1072)
Unit Serial:	<u>AAFAJJP0214</u>
Protective Counter:	7274
Software Version:	5.5.3-0002
-----	
Total Scanned:	0
Total Voters:	0

WE, THE UNDERSIGNED, HEREBY  
AFFIRM THAT AT THE OPENING OF  
THE POLLS AND AT THE END OF THIS  
REPORT AND UNIT READY THAT ALL  
CANDIDATE VOTE TOTALS ARE ZERO  
AT THIS TIME.

M. C. Henderson  
Name  
*M. C. Henderson*  
Signature  
Clemm Key  
Signature  
Rhonda Taylor  
Signature  
Rhonda Taylor  
Signature

Results are zero. Unit ready.  
Oct 28/2020 15:18:17

Tabulator Name  
AV-East Point Library ICP 3

Fulton County also provided a picture of the tabulator showing the same serial numbers as identified on the tape provided above:



This is wrong. The serial number reflected in the records for AV East Point Library ICP3 is the same as the serial number for AV East Point Library ICP2 as identified by the checklist

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produced in response to an Open Records Request for each tabulator before they were distributed:

**AV Tabulator Checklist**

**Poll Zero Tape (investigation)**

PRECINCT: East Point Library

	Serial # (11 Digits) or Cabinet #	Insert Compact Flash (CF) Cards	Power On	Confir Secur Key
1	<u>AAFAJJPO137</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2	<u>AAFAJJPO214</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Voting Location  
 AV-East Point Library

Report Printed  
 Oct 28/2020 15:18:17

Unit Model: PCOS-320C (Rev 1072)  
 Unit Serial: AAFAJJPO214  
 Protective Counter: 7274  
 Software Version: 5.5.3-0002

Total Scanned: 0  
 Total Voters: 0

It's also important to note that the checklist only shows two (2) tabulators- not three (3); which is because there were never three (3) tabulators at East Point Library for Advance Voting.

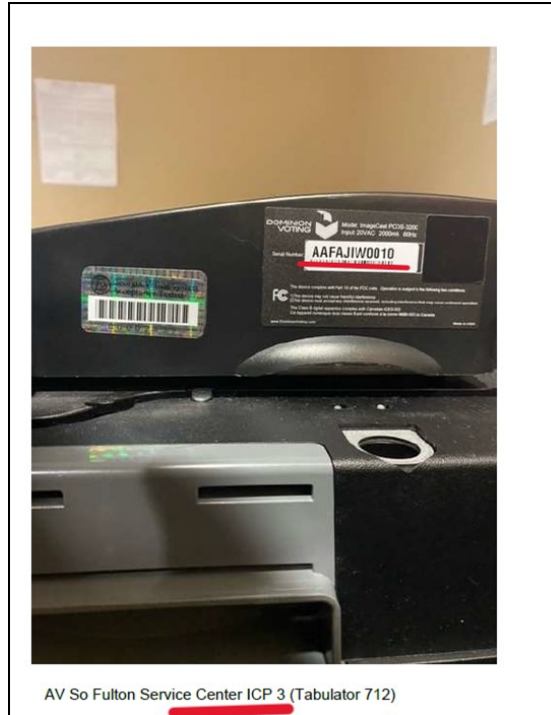
PRECINCT: East Point Library EULTON COUNTY, GA ELECTION DATE: November 3, 2020

Logic and Accuracy Checklist for Polling Place Scanner (v1\_2020)

Serial # (11 Digits) or Cabinet #	Insert Compact Flash (CF) Cards	Power On	Confir Security Key	Diagnosis Passed	Confir Version 5.5.3- 0002	Open Polls	Confir Polling Place Assigned	Confir Zero Count	Scan Test Desk Cards of BMD Generated & Optical Scan Ballast	Close Polls	Confir Printed Result Matches Expected Result	Power Off	Remove Full Worker CF Card & Upload to RTR	Insert Full Worker CF Card	Power On	Confir Security Key	No Zero & Print Zero Tape	Power Off	Confir Soft Box & All Bins Empty	Seal # (Admin CF Slot)	Seal # (Full Worker CF)	Seal # (Ballot Box)	Initials of Tech
<u>AAFAJJPO137</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0108201	225/740	2107585	[Signature]	
<u>AAFAJJPO214</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0108270	225/724	5107855	[Signature]	
3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					

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Similarly, the following image and detailed identification was provided by the investigators for “AV So Fulton Service Center ICP3”:



But the following checklist for Advance Voting tabulators distributed to South Fulton Service Center only show two (2) tabulators:

PRECINCT: South Svc Ctr FULTON COUNTY, GA ELECTION DATE: November 3, 2020

Logic and Accuracy Checklist for Polling Place Scanner (v1\_2020)

	Serial # (11 Digits) or Cabinet #	Insert Compact Flash (CF) Cards	Power On	Confirm Security Key	Diagnoses Passed	Confirm Voice S.S.S. 1602	Open Polls	Confirm Polling Place Assigned	Confirm Zero Count	Scan Test Deck Combo of BMD Generated & Optical Scan Ballots	Close Polls	Confirm Printed Results Expected Result	Power Off	Remove Poll Worker ID Card & Upload to BTE	Insert Poll Worker ID Card	Power On	Confirm Security Key	Re-Zero & Print Zero Tape	Power Off	Confirm Status Box & All Slots Empty	Seal # (Admin CF Slot)	Seal # (Poll Worker CF)	Seal # (Ballot Box)	Initial of Tech
1	AAFAJIW0010	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	090825	228730	1107355	gp	
2	AAFAJIW0010	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	090829	228738	1107357	gp	
3		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
4		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
5		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
6		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
7		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					

South Svc Ctr  
 Print 228742  
 PH# → 228738

Factual Response  
 To Accompany Letter dated June 13, 2024  
 to Georgia State Election Board

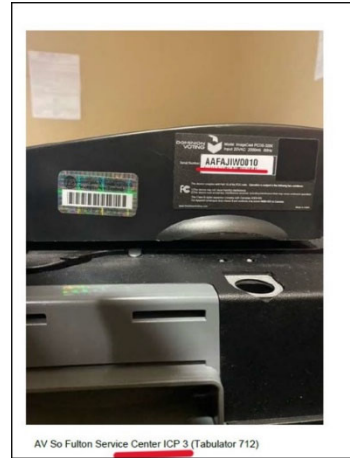
Once again, the serial number provided for the third tabulator (ICP3), matches that of the second tabulator identified on the checklist – the third tabulator never existed. We can speculate, as can the SOS office, as to how these ballots were added. But any addition was in violation of the chain of custody procedures required by the Election Code.

**AV Tabulator Checklist**

PRECINCT: South Svc Ctr

	Serial # (11 Digits) or Cabinet #	Insert Compact Flash (CF) Cards	Power On
1	AAPAJX0142	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2	AAPAJW0010	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3		<input type="checkbox"/>	<input type="checkbox"/>

**Photograph (investigation)**



Again, the following “Open” or “Zero” tape was provided by investigators for “AV Wolf Creek Library ICP4” or purportedly the fourth tabulator at Wolf Creek Library for Advance Voting:

```

*****
County
Fulton Nov 2020
General
Tuesday, November 3, 2020

Tabulator Name
AV-Wolf Creek Library ICP 4

Tabulator ID
714

Machine Location
AV-Wolf Creek Library

Report Printed
Oct 21/2020 07:42:10
-----
Unit Model: P000-S20C (Rev 1072)
Unit Serial: AAFAL0081
Protective Counter: 3757
Software Version: 5.5.3-0052
-----
Total Scanned: 0
Total Voters: 0
  
```



Factual Response  
 To Accompany Letter dated June 13, 2024  
 to Georgia State Election Board

Once again, Wolf Creek Library only had three (3) tabulators for Advance Voting:

PRECINCT: Wolf Creek Library FULTON COUNTY, GA ELECTION DATE: November 3, 2020

Logic and Accuracy Checklist for Polling Place Scanner (v1\_2020)

	Serial # (11 Digits) or Cabinet #	Insert Compact Flash (CF) Cards	Power On	Confirm Security Key	Diagnosis Passed	Confirm Version 5.5.3-0002	Open Polls	Confirm Polling Place Assigned	Confirm Zone Count	Scan Test: Back Counter of BMD Generated & Optical Scan Balance	Close Polls	Confirm Printed Receipt Matches Expected Receipt	Power Off	Remove Poll Worker (PW) Card & Ingested to BMD	Insert Full Worker (FW) Card	Power On	Confirm Security Key	Pin-Demo & Print Zero Tape	Power Off	Confirm Ballot Box & All Keys Empty	Serial # (Admin CF Slot)	Serial # (PW Worker CF)	Serial # (Ballot Box)	Initials of Tech
1	AAFAJJP0284	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0361730	230693	31174465	R.G.
2	AAFAJJY0364	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0361729	230217	31174466	R.G.
3	AAFAJKL0061	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	0361705	230283	31174461	R.G.
4		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
5		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
6		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
7		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

And once again, the serial number on the tape provided and identified as “ICP4” or tabulator four (4), matches that of tabulator number three (3):

\*\*\*\*\*

County  
 Fulton Nov 2020  
 General  
 Tuesday, November 3, 2020

Tabulator Name  
 AV-Wolf Creek Library ICP 4

Location ID:  
 714

Voting Location:  
 AV-Wolf Creek Library

Report Printed  
 Oct 21/2020 07:42:10

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Unit Model: PCOS-320C (Rev 1072)  
 Unit Serial: AAFAJKL0061  
 Protective Counter: 3707  
 Software Version: 5.5.3-0002

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Total Scanned: 0  
 Total Voters: 0

PRECINCT: Wolf Creek Library

	Serial # (11 Digits) or Cabinet #	Insert Compact Flash (CF) Cards	Power On	Confirm Security Key
1	AAFAJJP0284	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2	AAFAJJY0364	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3	AAFAJKL0061	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


Factual Response  
To Accompany Letter dated June 13, 2024  
to Georgia State Election Board

Therefore, the Investigator's Report failed to provide evidence as to the existence of the tabulators in question. What they did provide is evidence that the security seals for thirty-seven (37) Advance Voting tabulators were broken and the memory cards were unlawfully removed during a live election.

The fact is that 111 tabulators were distributed for Advance Voting but results from 148 tabulators were reported and included in the results 37 cards were swapped out during a live election with no chain of custody or provenance. What our investigation has determined is that the memory cards of multiple tabulators were replaced with ones programmed with a different identity. Each instance a separate violation of:

**Ga. Comp. R. & Regs. 183-1-14-.02** *"The memory cards shall remain in the ballot scanner at all times during the advance voting period until the polls close on the day of the primary, election, or runoff"*

It is also important to note that the total number of ballots cast on the thirty-seven (37) tabulators described above were nowhere near the ten thousand (10,000) ballot capacity of the memory cards.



**OFFICIAL ELECTION BULLETIN**  
October 27, 2020

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**TO: County Election Officials and County Registrars**  
**FROM: Chris Harvey, Elections Division Director**  
**RE: ImageCast Precinct Maximum Capacity Message**

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Dominion Voting released a customer advisory yesterday stating that when an ImageCast Precinct (ICP) Tabulator reaches approximately 10,000 ballots cast for a single election, a message will appear that reads, "Maximum Ballot Capacity Reached."

Please closely monitor the usage of all ICPs. If you believe that a single ICP will reach 10,000 ballots cast, please select from the two options below, which are both recommended by Dominion Voting. If you believe that any ICP will reach 10,000 ballots cast during the next day of voting, you should complete one of the two options below prior to the polls opening that day so that voting is not interrupted.

Factual Response  
 To Accompany Letter dated June 13, 2024  
 to Georgia State Election Board

In fact in almost every instance the total number of ballots stored on the second – or replacement memory card exceeded the number of the first. Why were these cards being swapped out?

Further, at the end of Advance Voting, the security seals were broken (again) and the memory card from each tabulator was removed. Four days later, when the polls closed on Election Day, each of the memory cards were inserted into 1 of 12 surrogate tabulators and the poll tapes were printed. Each one another violation, adding 148 additional violations of **Ga. Comp. R. & Regs. 183-1-14-.02**. The result is tabulator closing tapes which all have one of twelve (12) serial numbers and one of twelve (12) Protective Counter numbers. For example:

County Fulton Nov 2020 General Tuesday, November 3, 2020 Tabulator Name AV-New Beginnings Sr Ctr ICP 1 Tabulator ID 267 Voting Location AV-New Beginnings Sr Ctr ----- Poll Opened Oct 14/2020 07:25:41 Poll Closed Nov 03/2020 20:33:54 Report Printed Nov 03/2020 20:52:41 ----- Unit Model: PCDS-320C (Rev 1072) Unit Serial: <u>AAFAJIV0104</u> Protective Counter: <u>2481</u> Software Version: 5.5.3-0002 ----- Total Scanned: 1 Total Voters: 1	County Fulton Nov 2020 General Tuesday, November 3, 2020 Tabulator Name AV-Welcome All Rec Ctr ICP 2 Tabulator ID 324 Voting Location AV-Welcome All Rec Ctr ----- Poll Opened Oct 12/2020 06:39:43 Poll Closed Nov 04/2020 02:14:52 Report Printed Nov 04/2020 02:21:40 ----- Unit Model: PCDS-320C (Rev 1072) Unit Serial: <u>AAFAJIV0104</u> Protective Counter: <u>2481</u> Software Version: 5.5.3-0002 ----- Total Scanned: 603 Total Voters: 603	County Fulton Nov 2020 General Tuesday, November 3, 2020 Tabulator Name AV-Ocee Library ICP 3 Tabulator ID 703 Voting Location AV-Ocee Library ----- Poll Opened Oct 15/2020 15:07:51 Poll Closed Nov 03/2020 22:41:16 Report Printed Nov 03/2020 22:46:51 ----- Unit Model: PCDS-320C (Rev 1072) Unit Serial: <u>AAFAJIV0104</u> Protective Counter: <u>2481</u> Software Version: 5.5.3-0002 ----- Total Scanned: 3594 Total Voters: 3594	County Fulton Nov 2020 General Tuesday, November 3, 2020 Tabulator Name AV-Welcome All Rec Ctr ICP 4 Tabulator ID 713 Voting Location AV-Welcome All Rec Ctr ----- Poll Opened Oct 20/2020 09:38:59 Poll Closed Nov 03/2020 21:22:32 Report Printed Nov 03/2020 21:27:24 ----- Unit Model: PCDS-320C (Rev 1072) Unit Serial: <u>AAFAJIV0104</u> Protective Counter: <u>2481</u> Software Version: 5.5.3-0002 ----- Total Scanned: 2600 Total Voters: 2600	County Fulton Nov 2020 General Tuesday, November 3, 2020 Tabulator Name AV-Metropolitan Library ICP 4 Tabulator ID 758 Voting Location AV-Metropolitan Library ----- Poll Opened Oct 27/2020 12:16:13 Poll Closed Nov 03/2020 2:52:16 Report Printed Nov 03/2020 2:54:17 ----- Unit Model: PCDS-320C (Rev 1072) Unit Serial: <u>AAFAJIV0104</u> Protective Counter: <u>2481</u> Software Version: 5.5.3-0002 ----- Total Scanned: 2264 Total Voters: 2264
---	---	---	---	---

Note that for each of the tabulator closing tapes shown above, from five (5) different polling locations, all share the exact same serial number “AAFAJIV0104”, and all share the same Protective Counter number of “2,481”. The Protective Counter is like that of an odometer for the tabulator and maintains a count of every ballot successfully scanned for the life of the machine. It is also a statutorily recognized metric which is **required** to perform the **mandatory reconciliation and canvass processes**.

- The “Protective Counter” is required by federal law as a means of validating the use of voting machines. It is also required to be maintained and referenced by state law and regulations.

Factual Response  
To Accompany Letter dated June 13, 2024  
to Georgia State Election Board

The serial number printed on each Advance Voting closing tape for the 2020 General Election is **NOT** of the tabulator which scanned the ballots. The Protective Counter printed on each Advance Voting closing tape is also **NOT** from the tabulator which scanned the ballots.

A tabulator always prints its own serial number and Protective Counter number, no matter what memory card is inserted into the tabulator. This surreptitious process completely circumvented the following:

**Ga. Comp. R. & Regs. 183-1-14-.02 (13)** *At the end of the advance voting period, the registrars shall record the election counter number from each ballot scanner on the daily recap sheet. The ballot scanners shall be shut down and sealed. The registrars shall record the seal numbers on the daily recap sheet.”*

**Ga. Comp. R. & Regs. 183-1-14-.02 (14)** *By the close of the polls on the day of the primary, election, or runoff, the registrars shall deliver all of the ballot scanners used for advance voting and all other absentee ballots received to the election superintendent or the tabulating center.*

**Ga. Comp. R. & Regs. 183-1-14-.02** *The election superintendent or tabulating center personnel shall verify the seal numbers of each ballot scanner with the numbers recorded on the daily recap sheet form and shall inspect each seal and unit to verify that there is no evidence of tampering with the unit. If the seal numbers are not correct or there is evidence of tampering, the Secretary of State and the election superintendent shall be notified immediately, and no further action shall be taken with regard to such unit until the reason for the discrepancy has been determined to the satisfaction of the election superintendent.*

**Ga. Comp. R. & Regs. 183-1-14-.02 (15)** *After verifying the seal number and the integrity of the seal on each ballot scanner, the election superintendent or tabulating center personnel shall open each ballot scanner and turn on the power. The election superintendent or tabulating center personnel shall then compare the numbers shown on the election counters of the ballot scanners with the numbered list of absentee electors and the absentee ballot recap form to verify that there are no discrepancies. If there is a discrepancy, no further action shall be taken until the reason for the discrepancy has been determined to the satisfaction of the election superintendent. (emphasis added)*

In other words, all of the 148 Advance Voting tabulators/memory cards which accounted for 320,338 of the approximate 528,777 ballots cast, were not subjected to the authentication, verification or reconciliation processes as required by Georgia law. Election officials could not “...verify the seal numbers of each ballot scanner”, because the seals had been broken and the memory cards had already been removed. **Every** advance voting tabulator **was** “tampered with”, yet the unchecked results were processed. **None** of the tabulator election counters were compared with the numbered list of electors and the ballot recap forms to ensure there were no discrepancies in accordance with the mandatory process because the memory cards had been removed, they did not “...deliver all of the ballot scanners used for advance voting...to the election superintendent or the tabulating center.”

Factual Response  
To Accompany Letter dated June 13, 2024  
to Georgia State Election Board

Further:

- With the exception of four polling locations, the ballot recap forms for advance voting have still not been located after nearly four years, and
- there is no numbered list of electors for advance voting

Because of all these lapses, there is no way to validate most of the early voting results in Fulton County. The chain of custody was broken on each and every memory card and tabulator used for advance voting. This resulted in multiple violations for each of the 148 Advance Voting tabulator memory cards. In addition, there are no chain of custody records for the advance voting memory cards from the end of advance voting on October 30, 2020, until the polls closed four (4) days later on the evening of November 3, 2020.

Because the tabulator memory cards were removed before the results were tabulated, the data and vote tallies were left raw and unencrypted. Nothing was to prevent tampering during that period – it would be impossible to prove tampering could have occurred, which is why we have the rule in the first place.

Fulton County BRE member Mark Wingate, recently gave the following testimony about the reasons for his decision not to certify the 2020 General Election results (Jeff Clark Bar trial transcript at 1026-1027):

*But from that, in the 2020 election itself, I had, and other board members had requested that we obtain the chain of custody documentation from the department. And none of that was ever delivered. It was not delivered at the time of request leading up to the election and was certainly not given -- we weren't given -- was given nothing, you know, even leading up to the certification.”*

*And, you know, in terms of the memory cards that are being delivered so that they can be kept, you know, in security, there's the same level chain of command -- chain of custody documentation that is delivered **for all of the memory cards coming in from early voting locations** and, of course, on election day from each of the precincts. (emphasis added)*

*Okay. Well, that -- you know, since we asked and **did not receive any of it**, that to me is just one reason well, how can I trust, you know, as a board member and certify this election **when I cannot receive even a sampling, anything at all, with regards to chain of custody documents?***

As with the two (2) tabulator poll closing tapes provided for the investigation report, all poll closing tapes / official returns for the 148 Advance Voting tabulator memory cards were **NOT SIGNED, CERTIFIED, NOR WITNESSED** as required by O.C.G.A. § 21-2-483.

*The **official returns** of the votes cast on ballots at each polling place shall be printed by the tabulating machine. The returns thus prepared **shall be certified and promptly posted.***

Factual Response  
To Accompany Letter dated June 13, 2024  
to Georgia State Election Board

**EXHIBIT FR-1**

**SEB 2021-181: A RECAP OF MISSING BALLOTS**

In SEB 2021-181. Mr. Joseph Rossi presented evidence – confirmed by the Governor’s staff – that the “Hand Recount” was intentionally changed with false entries to make it appear that the Hand Recount had found the exact same number of mail-in ballots as had been counted in the original count after Election Day 2020. That was certainly a lie, as affirmed by Dr. Philip B. Stark of the University of California at Berkeley in his Declaration in the *Curling* litigation is available online at [Philip Stark CGG 9 | Download Free PDF | Government \(scribd.com\)](#).<sup>12</sup>

The Hand Count was not the manual process one would expect. Instead, the SOS required counties to use a centrally managed software application called ARLO to aggregate the results. Each batch of ballots is sorted by votes for each candidate, and then the number of ballots for each candidate are counted and the sum is recorded on a “batch tally sheet” as shown below:

Absentee Scanner 2 Batch 22  
Audit Board Batch Sheet

County Fulton

Batch Name Sc #2 (22)

Batch Type:  Absentee  Advance  Election Day  Provisional  Other

Was the container sealed when received by the audit board?  Yes

Candidates	Enter Stack Totals
Donald J. Trump	
Joseph R. Biden	200
Jo Jorgensen	
Overvote	
Blank/Undervote	

<sup>12</sup> Dr. Stark is a “statistics professor widely recognized as the inventor of risk-limiting audits,” See T. Pratts, “Why Georgia’s Unscientific Recount Horrified Experts,” THE NATION (Nov. 20, 2020). His 32 page Declaration is replete with indictments of the Fulton County “audit” and the Secretary of State. For example, in noting that the number of “audit” batch reports did not match the number of lines in the audit report, he notes, “This sort of ‘sanity check’ is simple to perform, but apparently was not performed by the auditors, [Fulton] County, or the Secretary of State.”

Factual Response  
To Accompany Letter dated June 13, 2024  
to Georgia State Election Board

As the Governor’s office found on Line 19153 of the Hand Recount summary, Absentee Scanner 2 scanned on Batch 22 of the presidential recount the following:

Candidate	Biden	Trump	Jorgensen	Other
<b>Vote Total in Batch</b>	85	12	2	1

A person or persons – there has been no investigation of who – changed that batch talley sheet in the Hand Recount to record 0<sup>13</sup> votes for Trump and 200 for Biden:

Candidate	Biden	Trump	Jorgensen	Other
<b>Vote Total in Batch</b>	200	0	0	0

The same persons or persons<sup>14</sup> changed a total of 78 batch totals and added 6,695 “votes” to the Hand Recount – votes that were not supported by the images counted in that recount – to ensure that the Hand Recount came up with exactly the number reported on Election Night. Of the 6,695 votes “added,” a total of 1,035 were added to the Trump count and 5,618 votes were added to the Biden count, for a net to Biden of 4,583 votes.

These errors were documented by Mr. Rossi. The same was then recreated and verified by the Governor’s office, which produced a report chronicling each instance in which the official batch results did not accurately represent the corresponding batch tally sheets and/or ballots. The Governor sent the report of his staff to the Board on November 17, 2021, with a request that the Board review and correct the record:

“The 36 inconsistencies noted by Mr. Rossi are factual in nature, pose no underlying theories outside of the reported data, and could not be explained by my office after a thorough review detailed below. The purpose of this letter is to convey these inconsistencies to the Board and request them to be explained or corrected.” Letter from Governor Brian P. Kemp to Georgia State Election Board 1 (Nov. 17, 2021).

Governor Kemp reminded the Board of its duties:

“As you know, I chaired this Board for nine years. During that time, we tackled many tough issues .... It is the responsibility of this Board to safeguard the confidence I and all my fellow Georgians must have in our elections. This is one issue where I believe this Board must act swiftly, and I urge you to do so in this case.” *Id.* at 2.

The Governor further proposed that the Board consider the following actions:

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<sup>13</sup> “Zero” is defined as a number with a value of none. <https://sciencenotes.org/number-zero-definition-and-facts/>.

<sup>14</sup> The responsible “person or persons” may have been the SOS office, since the final entries in the Hand Recount were loaded using the ARLO system controlled by the SOS. Since there has never been an independent investigation of SEB 2021-181 by disinterested observers, there is no way to know.

Factual Response  
To Accompany Letter dated June 13, 2024  
to Georgia State Election Board

- “1. Direct investigators to review Mr. Rossi's findings, just as my office has, and order corrective action as needed to address any verified errors.
2. Determine whether any changes should be made to the RLA Report. If so, the Board should determine whether such changes adversely impact the integrity of the RLA Report as originally reported.
3. Review the audit methodology used in counties across Georgia and create a prescriptive and uniform set of rules that ensure one process is followed by all counties that result in a clear presentation of data.” *Id.*

The Board did not take any of these steps or consider doing so. Instead, the Board referred the matter to the Attorney General for investigation and action. Rather than investigate this matter further the Attorney General reverted with a “consent agreement” requiring Fulton County to count correctly in the future. This milquetoast resolution was recommended to the Board despite the serious implications of the research that had been confirmed by the Governor, academics, the Secretary of State’s own staff, the Atlanta Journal-Constitution<sup>15</sup>, and apparently admitted to by Fulton County.

Neither the Complainant in that case nor the public was allowed to review the results of the investigation (evidence suggests there was no further investigation) or rebut the conclusions or the “consent decree” at an open hearing. Chairman Bill Duffey swept the entire matter under the rug, asking for approval of the consent decree by the Board without even showing the Board a copy of what they were approving, as we now know from open records requests.<sup>16</sup>

All parties are aware that the SEB 2021-181 showed that 6,695 ballots identified as being “present and accounted for” in the Hand Recount were simply not there. A still unidentified person modified batch tally sheets to include votes that were not present in the batches or supported by ballots.

And got away with it.

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<sup>15</sup> M. Niese, Georgia Investigation Finds Errors in Fulton Audit,” Atlanta J.-Const. (July 17, 2023) <https://www.ajc.com/politics/georgia-investigation-finds-errors-in-fulton-audit-of-2020-election/BZ7D5JXOMRBPZIU4PNVYIHQZR4/>

<sup>16</sup> The new members of the Board may be interested in this appalling lack of interest in serious discrepancies in Fulton County by the investigators, the Fulton County elections Director and the Board of Registration and Elections, and the Secretary of State.



**EXHIBIT FR-2**

**BLR1 TO BLR2**

**[SEE NEXT PAGE]**

### The Early Voting Batches Added After Batches Loaded Report 1 By Tabulator

Total Ballots Added = 13,877

Total Missing Ballot Images = 6074

BLR 2					Missing Ballot Images	BALLOT IMAGE DATA			
Tab. #	Batch #	Tabulator Name	Upload/Published Date & Time	Total Ballots		1st Ballot Image File Name	1st Ballot Image Scan Time	Last Ballot Image File Name	Last Ballot Image Scan Time
799	119	Early Voting ICC 1	12/2/2020 10:17:22 PM	1		00799_00119_000001.tif	12/2/20 3:21:57 PM	00799_00119_000001.tif	12/2/20 3:21:57 PM
799	120	Early Voting ICC 1	12/2/2020 11:51:19 PM	157		00799_00120_000001.tif	12/2/20 10:59:06 PM	00799_00120_000157.tif	12/2/20 11:00:10 PM
799	121	Early Voting ICC 1	12/2/2020 11:51:14 PM	129		00799_00121_000001.tif	12/2/20 11:00:56 PM	00799_00121_000129.tif	12/2/20 11:01:49 PM
799	122	Early Voting ICC 1	12/2/2020 11:51:13 PM	123		00799_00122_000001.tif	12/2/20 11:02:28 PM	00799_00122_000123.tif	12/2/20 11:03:19 PM
799	123	Early Voting ICC 1	12/2/2020 11:51:14 PM	167		00799_00123_000001.tif	12/2/20 11:05:47 PM	00799_00123_000167.tif	12/2/20 11:06:56 PM
799	124	Early Voting ICC 1	12/2/2020 11:51:13 PM	92		00799_00124_000001.tif	12/2/20 11:07:31 PM	00799_00124_000092.tif	12/2/20 11:08:09 PM
799	125	Early Voting ICC 1	12/2/2020 11:51:21 PM	172		00799_00125_000001.tif	12/2/20 11:09:14 PM	00799_00125_000172.tif	12/2/20 11:10:25 PM
799	126	Early Voting ICC 1	12/2/2020 11:51:17 PM	143		00799_00126_000001.tif	12/2/20 11:11:40 PM	00799_00126_000143.tif	12/2/20 11:12:39 PM
799	127	Early Voting ICC 1	12/2/2020 11:51:16 PM	143		00799_00127_000001.tif	12/2/20 11:13:16 PM	00799_00127_000143.tif	12/2/20 11:14:15 PM
799	128	Early Voting ICC 1	12/2/2020 11:51:14 PM	139		00799_00128_000001.tif	12/2/20 11:15:43 PM	00799_00128_000139.tif	12/2/20 11:16:41 PM
<b>799</b>	<b>Early Voting ICC 1</b>			<b>1266</b>	<b>0</b>				
801	113	Early Voting ICC 2	12/3/2020 12:00:29 AM	33	33			ALL BALLOTS MISSING IMAGES	
801	114	Early Voting ICC 2	12/3/2020 12:00:26 AM	115	115			ALL BALLOTS MISSING IMAGES	
801	115	Early Voting ICC 2	12/3/2020 12:00:27 AM	329	329			ALL BALLOTS MISSING IMAGES	
801	116	Early Voting ICC 2	12/3/2020 12:00:27 AM	316	316			ALL BALLOTS MISSING IMAGES	
801	117	Early Voting ICC 2	12/3/2020 12:00:26 AM	26	26			ALL BALLOTS MISSING IMAGES	
801	118	Early Voting ICC 2	12/3/2020 12:00:30 AM	149	149			ALL BALLOTS MISSING IMAGES	
801	119	Early Voting ICC 2	12/3/2020 12:00:26 AM	5	5			ALL BALLOTS MISSING IMAGES	
<b>801</b>	<b>Early Voting ICC 2</b>			<b>973</b>	<b>973</b>				
802	81	Early Voting ICC 3	12/2/2020 11:51:51 PM	89	89			ALL BALLOTS MISSING IMAGES	
802	82	Early Voting ICC 3	12/2/2020 11:51:52 PM	200	200			ALL BALLOTS MISSING IMAGES	
802	83	Early Voting ICC 3	12/2/2020 11:51:52 PM	360	360			ALL BALLOTS MISSING IMAGES	
802	84	Early Voting ICC 3	12/2/2020 11:51:53 PM	448	448			ALL BALLOTS MISSING IMAGES	
802	85	Early Voting ICC 3	12/2/2020 11:51:52 PM	268	268			ALL BALLOTS MISSING IMAGES	
802	86	Early Voting ICC 3	12/3/2020 1:48:01 PM	239	239			ALL BALLOTS MISSING IMAGES	
<b>802</b>	<b>Early Voting ICC 3</b>			<b>1604</b>	<b>1604</b>				
803	81	Early Voting ICC 4	12/2/2020 11:54:36 PM	301	301			ALL BALLOTS MISSING IMAGES	
803	82	Early Voting ICC 4	12/2/2020 11:54:32 PM	243	243			ALL BALLOTS MISSING IMAGES	
803	83	Early Voting ICC 4	12/2/2020 11:54:32 PM	265	265			ALL BALLOTS MISSING IMAGES	
803	84	Early Voting ICC 4	12/2/2020 11:54:31 PM	237	237			ALL BALLOTS MISSING IMAGES	
803	85	Early Voting ICC 4	12/2/2020 11:54:36 PM	294	294			ALL BALLOTS MISSING IMAGES	
803	86	Early Voting ICC 4	12/2/2020 11:54:36 PM	234	234			ALL BALLOTS MISSING IMAGES	
803	87	Early Voting ICC 4	12/2/2020 11:54:31 PM	205	205			ALL BALLOTS MISSING IMAGES	
803	88	Early Voting ICC 4	12/2/2020 11:54:32 PM	319	319			ALL BALLOTS MISSING IMAGES	
<b>803</b>	<b>Early Voting ICC 4</b>			<b>2098</b>	<b>2098</b>				
804	73	Early Voting ICC 5	12/2/2020 11:52:31 PM	248	248			ALL BALLOTS MISSING IMAGES	
804	74	Early Voting ICC 5	12/2/2020 11:52:29 PM	10	10			ALL BALLOTS MISSING IMAGES	
804	75	Early Voting ICC 5	12/2/2020 11:52:29 PM	10	10			ALL BALLOTS MISSING IMAGES	
<b>804</b>	<b>Early Voting ICC 5</b>			<b>268</b>	<b>268</b>				
805	85	Early Voting ICC 6	12/2/2020 11:53:57 PM	231	231			ALL BALLOTS MISSING IMAGES	
805	86	Early Voting ICC 6	12/2/2020 11:53:56 PM	80	80			ALL BALLOTS MISSING IMAGES	
805	87	Early Voting ICC 6	12/2/2020 11:53:57 PM	233	233			ALL BALLOTS MISSING IMAGES	
805	88	Early Voting ICC 6	12/2/2020 11:53:57 PM	130	130			ALL BALLOTS MISSING IMAGES	
<b>805</b>	<b>Early Voting ICC 6</b>			<b>674</b>	<b>674</b>				
806	124	Early Voting ICC 7	12/2/2020 11:53:07 PM	275	275			ALL BALLOTS MISSING IMAGES	
806	125	Early Voting ICC 7	12/2/2020 11:53:05 PM	33	33			ALL BALLOTS MISSING IMAGES	
806	126	Early Voting ICC 7	12/2/2020 11:53:06 PM	149	149			ALL BALLOTS MISSING IMAGES	
<b>806</b>	<b>Early Voting ICC 7</b>			<b>457</b>	<b>457</b>				
815	1	Early Voting ICC 15	12/2/2020 10:16:59 PM	207		00815_00001_000001.tif	12/1/20 4:02:17 PM	00815_00001_000207.tif	12/1/20 4:03:44 PM
815	2	Early Voting ICC 15	12/2/2020 10:16:24 PM	101		00815_00002_000001.tif	12/1/20 4:04:48 PM	00815_00002_000101.tif	12/1/20 4:05:29 PM
815	3	Early Voting ICC 15	12/2/2020 10:16:47 PM	181		00815_00003_000001.tif	12/1/20 4:06:39 PM	00815_00003_000181.tif	12/1/20 4:07:55 PM
815	4	Early Voting ICC 15	12/2/2020 10:16:37 PM	157		00815_00004_000001.tif	12/1/20 4:08:33 PM	00815_00004_000157.tif	12/1/20 4:09:39 PM
815	5	Early Voting ICC 15	12/2/2020 10:16:37 PM	165		00815_00005_000001.tif	12/1/20 4:10:17 PM	00815_00005_000165.tif	12/1/20 4:11:26 PM
815	6	Early Voting ICC 15	12/2/2020 10:16:39 PM	161		00815_00006_000001.tif	12/1/20 4:12:01 PM	00815_00006_000161.tif	12/1/20 4:13:08 PM
815	7	Early Voting ICC 15	12/2/2020 10:16:41 PM	150		00815_00007_000001.tif	12/1/20 4:13:31 PM	00815_00007_000150.tif	12/1/20 4:21:17 PM
815	8	Early Voting ICC 15	12/2/2020 10:16:42 PM	3		00815_00008_000001.tif	12/1/20 4:23:43 PM	00815_00008_000003.tif	12/1/20 4:23:43 PM
815	9	Early Voting ICC 15	12/2/2020 10:16:24 PM	177		00815_00009_000001.tif	12/1/20 5:03:11 PM	00815_00009_000177.tif	12/1/20 5:06:37 PM
815	10	Early Voting ICC 15	12/2/2020 10:16:29 PM	213		00815_00010_000001.tif	12/1/20 5:07:35 PM	00815_00010_000213.tif	12/1/20 5:12:00 PM
815	11	Early Voting ICC 15	12/2/2020 10:16:32 PM	167		00815_00011_000001.tif	12/1/20 5:16:21 PM	00815_00011_000167.tif	12/1/20 5:20:06 PM
815	12	Early Voting ICC 15	12/2/2020 10:16:33 PM	298		00815_00012_000001.tif	12/1/20 5:26:14 PM	00815_00012_000298.tif	12/1/20 5:32:40 PM
815	13	Early Voting ICC 15	12/2/2020 10:16:33 PM	301		00815_00013_000001.tif	12/1/20 5:33:21 PM	00815_00013_000301.tif	12/1/20 5:41:30 PM
815	14	Early Voting ICC 15	12/2/2020 10:16:32 PM	237		00815_00014_000001.tif	12/1/20 5:42:40 PM	00815_00014_000237.tif	12/1/20 5:48:29 PM
815	15	Early Voting ICC 15	12/2/2020 10:16:28 PM	166		00815_00015_000001.tif	12/1/20 5:49:16 PM	00815_00015_000166.tif	12/1/20 6:00:24 PM
815	16	Early Voting ICC 15	12/2/2020 10:16:29 PM	301		00815_00016_000001.tif	12/1/20 6:01:16 PM	00815_00016_000301.tif	12/1/20 6:07:11 PM
815	17	Early Voting ICC 15	12/2/2020 10:16:29 PM	310		00815_00017_000001.tif	12/1/20 6:08:02 PM	00815_00017_000310.tif	12/1/20 6:11:43 PM
815	18	Early Voting ICC 15	12/2/2020 10:16:25 PM	301		00815_00018_000001.tif	12/1/20 6:12:37 PM	00815_00018_000301.tif	12/1/20 6:28:15 PM
815	19	Early Voting ICC 15	12/2/2020 10:16:25 PM	301		00815_00019_000001.tif	12/1/20 6:29:17 PM	00815_00019_000301.tif	12/1/20 6:37:51 PM
815	20	Early Voting ICC 15	12/2/2020 10:16:25 PM	231		00815_00020_000001.tif	12/1/20 7:51:22 PM	00815_00020_000231.tif	12/1/20 7:55:40 PM
815	21	Early Voting ICC 15	12/2/2020 10:16:28 PM	191		00815_00021_000001.tif	12/1/20 8:29:40 PM	00815_00021_000191.tif	12/1/20 8:49:22 PM
815	22	Early Voting ICC 15	12/2/2020 10:16:33 PM	305		00815_00022_000001.tif	12/1/20 8:52:28 PM	00815_00022_000305.tif	12/1/20 8:59:29 PM
815	23	Early Voting ICC 15	12/2/2020 10:16:35 PM	203		00815_00023_000001.tif	12/1/20 9:00:34 PM	00815_00023_000203.tif	12/1/20 9:02:34 PM
815	24	Early Voting ICC 15	12/2/2020 10:16:35 PM	279		00815_00024_000001.tif	12/1/20 9:55:23 PM	00815_00024_000279.tif	12/1/20 10:00:56 PM
815	25	Early Voting ICC 15	12/2/2020 10:16:48 PM	149		00815_00025_000001.tif	12/1/20 10:01:47 PM	00815_00025_000149.tif	12/1/20 10:11:12 PM
815	26	Early Voting ICC 15	12/2/2020 10:16:50 PM	177		00815_00026_000001.tif	12/1/20 10:15:31 PM	00815_00026_000177.tif	12/1/20 10:21:27 PM
815	27	Early Voting ICC 15	12/2/2020 10:16:52 PM	139		00815_00027_000001.tif	12/1/20 10:22:04 PM	00815_00027_000139.tif	12/1/20 10:26:00 PM
815	28	Early Voting ICC 15	12/2/2020 10:16:54 PM	220		00815_00028_000001.tif	12/1/20 10:27:27 PM	00815_00028_000220.tif	12/1/20 10:32:50 PM
815	29	Early Voting ICC 15	12/2/2020 10:16:56 PM	311		00815_00029_000001.tif	12/1/20 10:34:22 PM	00815_00029_000311.tif	12/1/20 10:39:46 PM
815	30	Early Voting ICC 15	12/2/2020 10:16:44 PM	213		00815_00030_000001.tif	12/1/20 10:41:01 PM	00815_00030_000213.tif	12/1/20 10:48:59 PM
815	31	Early Voting ICC 15	12/2/2020 10:16:43 PM	222		00815_00031_000001.tif	12/1/20 10:50:17 PM	00815_00031_000222.tif	12/1/20 10:57:53 PM
<b>815</b>	<b>Early Voting ICC 15</b>			<b>6537</b>	<b>0</b>				
<b>TOTAL EARLY VOTING BALLOTS ADDED AFTER BLR 1</b>				<b>13877</b>	<b>6074</b>				

**EXHIBIT FR-3**  
**TABULATOR 816**  
**[SEE NEXT PAGE]**

