



June 18, 2024

To: Mr. John Fervier, Chairman, Georgia State Election Board, (jfervier.seb@gmail.com)

Subject: SEB2023-025

Dear Chairman Fervier,

I am writing to alert you to the investigation deficiencies and false information you received at the last board meeting concerning SEB2023-025 which I believe to be **the most important complaint that the board has received in the 20 years that I have been attending board meetings**. As I explained in my April 13, 2024, letter concerning SEB2022-348, **the complainants have yet to present their evidence at a hearing** thus, once again, defying 20 years of SEB historical precedents.

Furthermore, the lead investigator was only able to answer two of Dr. Johnston's basic questions about this critical investigation. Worse yet, the SOS legal counsel inserted herself into his presentation, misrepresented the complainants' claims and made numerous assertions which this letter documents as **false** in the Appendix.

To recap, SEB2023-025 claims that in the 2020 General Election, Fulton County certified up to 58,924 votes that have no source justification. Specifically, it claims:

1. 17,852 ballots with certified votes have no .TIF ballot images or .SHA authentication files
2. 3,125 ballots were double scanned and counted twice
3. 20,713 ballots from ten tabulators which have no tabulator documents
4. 17,234 Presidential race votes were backfilled from unknown ballots to reconcile Dec. 3 results

Although the fourth claim was **never addressed** at the last meeting on May 7, 2024, the SOS office and Fulton County essentially admitted to at least 10,989 of these claims of no source justification for ballots with certified votes as well as roughly 150 technical process violations. In addition, there was no explanation for 380,458 missing original ballot images and .SHA authentication files.

Millions of voters throughout Georgia and America expect a **legitimate investigation that will reveal Fulton's real 2020 results and determine the root cause of these documented problems so voter rights will be protected for the 2024 General Election**. It is incumbent upon the board to adopt the current motions to reconsider referral of these claims as requested at the May 8, 2024, meeting. This referral must be to **an independent counsel who can conduct a real investigation under SEB supervision**.

Sincerely,
Garland Favorito
Co-founder
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Appendix: False Information Presented at May 7, 2024 Hearing on SEB2023-025

Lead Investigator Michael Brunson:

"Furthermore, the preservation of ballot images was not required in 2020. It was not until the passage of SB202 in 2021 that ballot images were deemed public record subject to public inspection under the Georgia Open Records Act"

Facts:

Ballot images are clearly election records which are required to be preserved for at least 22 months under federal and state law regardless of ORRs:

"All primary and election documents on file in the office of the election superintendent of each county, municipal governing authority, superintendent, registrar, committee of a political party or body, or other officer shall be preserved therein for a period of at least 24 months and then the same may be destroyed unless otherwise provided by law." O.C.G.A. 21-2-73

"Every officer of election shall retain and preserve, for a period of twenty-two months... all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election,..." USC 20701

Investigator Gilbert Humes:

Dr. Johnston: If there has to be a ballot or ballot image for each vote and there are 17,852 missing images did the investigators look further to find those actual ballots?

"What the investigation determined is that there were 21,798 missing ballots when you do not conflate ballots cast and votes cast. So, because they had an ICC tabulator that had a duplicate name and those images were rejected, when it was rescanned there was 21,798 ballot images that were found and added to the 506,000 for the 527,925 ballot cast total amount. Tabulator 816 had the 21,798 ballots."

Facts:

The 17,852 ballot images remain missing and three expert witnesses have testified or provided declarations in court cases to confirm that. Mr. Humes' convoluted answer avoided the question and the Batches Loaded Reports show no ballot rejections or rescanning for Tabulator 816 as claimed.

Fulton Attorney Ann Brumbaugh:

Dr. Johnston: The ballot image is supposed to be accompanied by a .SHA file which proves the ballot image has not been tampered with. Did Fulton County find and confirm the .SHA files for all the ballot images?

"Respectfully this is outside of the scope of the original complaint and as Ms. McGowan stated if there are further investigations or further complaints to be made we need to stay within the confines of this complaint"

Facts:

The scope of the complaint is that thousands of Fulton County certified votes have no source justification. Any legitimate investigation must analyze all source records for the votes. That includes .SHA files that authenticate ballot images used to create cast vote records for the tabulated votes.

SOS Legal Counsel Charlene McGowan:

"So, you will hear a great deal during this presentation about documents such as ballot images, batches loaded reports and tabulator tapes and all of those documentations, 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 is important to note that they play no role in the actual tabulation of results in an election."

Facts:

Tabulation is dependent upon an analysis of ballot images that creates cast vote records for tabulation. Every scanner tabulation produces a tabulator tape for the scanner. The tabulated batches are then uploaded to the election server for publication as documented by Batches Loaded Reports. Certified votes must have corresponding tabulator tapes and uploaded report batches.

"We know 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 result." So as long as we have that paper ballot we have the paper trail that accurately records the voter's choices."

"Now, 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." "And all three counts confirmed the results of the Presidential contest in 2020."

Facts:

The paper ballots were only counted during the Nov. 14-15 hand count audit. Fulton Co. has refused to allow public access to the ballots for over 3 ½ years and even hired criminal defense attorneys to help avoid public access. Attorney McGowan filed an [amicus brief](#) with [false arguments](#) advocating to keep the ballots secret.

"The investigation also shows that there are some duplicative ballot images in the ballot images that Fulton Co. 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 were in the tabulated result... "

Facts:

Each duplicate ballot image shows an audit mark that was appended to the image when its cast vote record was created. Fulton Co. electronic documentation shows all cast vote records were tabulated.

"And most importantly, nothing about this case changes the results of the 2020 election. Those results are accurate. They were accurate at the time in 2020, they are still accurate now and nothing about this investigation changes that."

Facts:

The results could not possibly be accurate with 17,852 more votes than ballots images, 6,653 misreported results in the audit, missing tabulator tapes and supporting documentation for at least 7,914 ballots and at least 3,075 double scanned and double counted ballots.

"The investigation has confirmed what we already knew and there is nothing new that we have learned as the results of this investigation."

Facts:

This means the SOS already knew there were 17,852 more votes than ballots, 6,653 misreported audit results, 7,914 ballots with missing tabulator tapes and 3,075 double scanned ballots.