

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

**STATE ELECTION BOARD,
Petitioner,**

v.

**TRUE THE VOTE, INC.,
Respondent.**

2023CV382520
Civil Action No. _____

**PETITION FOR ORDER TO COMPEL RESPONSE TO
STATE ELECTION BOARD'S SUBPOENA**

Pursuant to O.C.G.A. § 21-2-33, the State Election Board (“SEB”), by and through its counsel, files this Petition before this Court for an Order requiring the above-referenced complainant, True the Vote, Inc., to respond completely and fully to the Subpoena for Production of Documents in the matter of SEB Case No. 2022-003, attached hereto as Exhibit 1, which was served upon it the SEB. Counsel for the SEB has engaged in good faith discussions in an attempt to resolve disputes regarding the subpoena, but at this juncture, True the Vote will not produce documents in response to the subpoena.

FACTUAL BACKGROUND

Under Georgia’s Elections Code, the SEB has the duty “to investigate, or authorize the Secretary of State to investigate, when necessary or advisable the administration of primary and election laws and frauds and irregularities

in primaries and elections. . . .” O.C.G.A. § 21-2-31(5). On or about November 30, 2021, True the Vote submitted written complaints to the Georgia Secretary of State’s office with allegations regarding purported ballot trafficking and alleged issues involving ballot drop box surveillance videos in the 2020 General Election and/or January 2021 Runoff Election. (Exhibit 2.) At the time it submitted its complaints, True the Vote was a foreign non-profit corporation registered with the Corporations Division of the Georgia Secretary of State.¹ An investigation regarding the complaints was opened as SEB Case No. 2022-003.

On April 21, 2022, the SEB issued a Subpoena Duces Tecum for True the Vote to produce certain documents that are relevant to the investigation for SEB Case No. 2022-003. (See Exhibit 1.) That same day, counsel for True the Vote, Brock Akers, agreed to accept service of the subpoena on behalf of True the Vote. (Exhibit 3.) The subpoena was then served, pursuant to Mr. Akers’ agreement to accept service electronically, when a PDF was sent by email attachment to Mr. Akers on April 21, 2022. (Exhibit 4.) An additional paper copy of the subpoena was also sent to True the Vote by certified mail. (Exhibit

¹ Registration date of July 23, 2021. True the Vote’s corporate registration in Georgia was administratively revoked on October 28, 2022. However, its registered agent is located in Fulton County. See <https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=3394898&businessType=Foreign%20Nonprofit%20Corporation&fromSearch=True> (last visited July 7, 2023).

5.)

On April 24, 2023, counsel for the SEB contacted Mr. Akers regarding the subpoena to True the Vote, as well as other subpoenas that were issued for which Mr. Akers accepted service in SEB Case No. 2022-003. By letter dated May 5, 2023, another counsel for True the Vote, Michael J. Wynne, submitted a written request that the complaint previously filed with Georgia election officials by True the Vote which initiated SEB Case No. 2022-003 be withdrawn. (Exhibit 6.) On May 19, 2023, the Chair of the SEB, the Hon. William S. Duffey, Jr., denied True the Vote's request to dismiss the complaint, citing the serious allegations made in the complaint and noting that the SEB's investigation remains ongoing. (Exhibit 7.) Later that same day, counsel for the SEB sent a letter to Mr. Wynne to request a time for a conference call to discuss in good faith any disputes regarding the subpoena. (Exhibit 8.) The conference call between counsel for the SEB and True the Vote's counsel occurred on or about May 23, 2023.

On June 14, 2023, counsel for True the Vote submitted a written response to the subpoena and stated that the complainants had produced certain responsive documents previously to other agencies, such as the Georgia Bureau of Investigation ("GBI"), but that they would be willing to produce these materials "again" to the SEB. (Exhibit 9.) Counsel for the SEB requested that the responsive documents be produced in response to the subpoena, and,

despite initially agreeing to provide at least a partial production to the subpoena, by letter dated June 30, 2023, counsel for True the Vote refused to produce documents to the SEB in response to the subpoena and referred the SEB to materials that True the Vote contends were produced to a separate investigative agency, the GBI. (Exhibit 10.)

ARGUMENT

Pursuant to O.C.G.A § 21-2-33, the SEB has full authority to seek testimony and documents through a subpoena from any witnesses with regard to any questions which may properly come before the board. In order to fully investigate the issues raised by True the Vote in SEB Case No. 2022-003, the SEB required additional information from the complainant which precipitated the issuance of the subpoena at hand. After multiple good faith efforts by the SEB and its counsel to obtain the requested information and documents, True the Vote continues to indifferently vacillate between statements of assured compliance and blanket refusals, leaving the SEB with no recourse but to report, per the foregoing statute, such conduct to this Court and seek an immediate remedy. *See* O.C.G.A. § 21-2-33 (“ . . . In case of the refusal of any person subpoenaed to attend or testify, such facts shall be reported forthwith by the board to the appropriate superior court, or to a judge thereof, and such court or judge shall order such witness to attend and testify. . . .”)

WHEREFORE, the SEB respectfully petitions this Court to issue an Order compelling True the Vote, Inc., Complainant in the matter of SEB Case No. 2022-003, to fully and completely respond to the Subpoena for Production of Documents, *instanter*, as previously requested, and providing that the SEB have such other and further relief as the Court deems appropriate under the circumstances.

Respectfully submitted this 11th day of July, 2023.

CHRISTOPHER M. CARR 112505
Attorney General

BRYAN K. WEBB 743580
Deputy Attorney General

RUSSELL D. WILLARD 760280
Senior Assistant Attorney General

/s/ Elizabeth Vaughan
ELIZABETH VAUGHAN 762715
Assistant Attorney General

/s/ John P. Smith
JOHN P. SMITH 655594
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EXHIBIT 1

BEFORE THE STATE ELECTION BOARD
STATE OF GEORGIA

IN THE MATTER OF:

True the Vote

Complainant

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* SEB Case No. 2022-003
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SUBPOENA DUCES TECUM

TO: True the Vote, Inc.
c/o Registered Agents, Inc.
300 Colonial Center Parkway
Suite 100N
Roswell, GA 30076

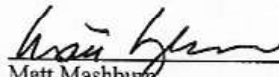
c/o: Brock Ackers Esq, Registered Agent
3401 Allen Parkway, Suite 101
Houston, TX 77019

YOU ARE HEREBY COMMANDED AND DIRECTED that, pursuant to O.C.G.A. § 21-2-33 and laying all other business aside, you shall produce the documents and records described in **Exhibit A** to Investigator Dana DeWeese via email to ddeweese@sos.ga.gov no later than **April 28th, 2022**.

Should you have any questions, please contact **Investigator DeWeese at 470-312-2761**.

In case of refusal to obey a subpoena issued to any person pursuant to O.C.G.A. § 21-2-33, a superior court of appropriate jurisdiction, upon application by the State Election, may issue to the person any order requiring him to appear before the court to show cause why he should not be held in contempt for refusal to obey the subpoena. Failure to obey a subpoena may be punished by the court as contempt of court.

HEREIN FAIL NOT UNDER PENALTY OF LAW, this 21st day of April 2022.



Matt Mashburn
Acting Chairperson, State Election Board

Exhibit A

1. The “detailed account of coordinated efforts to collect and deposit ballots in drop boxes across metro Atlanta” that you reference in your November 30, 2021 complaint (“Complaint”), including any recordings, transcripts, summaries, testimony, statements, witness interviews, notes, or other documents describing such account, including the identities and contact information for the people who gave you such detailed account.
2. The identity and contact information of the “several individuals regarding personal knowledge, methods, and organizations involved in ballot trafficking in Georgia” referenced in your Complaint and any recordings, transcripts, summaries, testimony, statements, witness interviews, notes or other documents describing what those individuals said.
3. The identity and contact information of the “contracted team of researchers and investigators” referenced in your Complaint and any recordings, transcripts, testimonies, statements, summaries, witness interviews, notes, or other documents evidencing what the “several individuals regarding personal knowledge, methods, and organizations involved in ballot trafficking in Georgia” told them.
4. The identity and contact information for John Doe referenced in your Complaint and any recordings, transcripts, testimonies, statements, summaries, witness interviews, notes, or other documents evidencing all statements John Doe told you.
5. The identity and contact information for John Doe’s mother and any recordings, transcripts, testimonies, statements, summaries, witness interviews, notes or other documents evidencing what she told you or your contracted team of researchers and investigators.
6. Any recordings, transcripts, voicemails, summaries, notes, or other documents from your Georgia Election Integrity Hotline, tip line, or other hotline regarding allegations of ballot harvesting in Georgia.
7. Any receipts, invoices, bills, or other documents evidencing any medical payments you or your contracted team of vendors made for any person you suspect participated in ballot harvesting in Georgia.
8. The identities of the “network of non-governmental organizations that worked together to facilitate a ballot trafficking scheme in Georgia” that John Doe described to you and any recordings, transcripts, testimonies, statements, summaries, witness interviews, notes, or other documents evidencing those statements.
9. The identities of the “ten hubs” in Atlanta that you allege participated in a ballot harvesting scheme in Georgia.
10. The identity and contact information for the “bartender who came in from South Carolina” to help with the alleged ballot harvesting scheme in Georgia and any

recordings, transcripts, testimonies, statements, summaries, witness interviews, notes or other documents supporting this allegation.

11. Any Non-disclosure agreements or confidentiality agreements you are relying on to withhold the disclosure of any documents or information being requested by this subpoena.

EXHIBIT 2

TRUE THE VOTE

November 30, 2021

Brad Raffensperger
Secretary of State
Georgia Capitol
206 Washington St SW
Atlanta, GA 30334

Complainant: True the Vote, PO Box 3109 #19128 Houston, TX 77253-3109

Complaint: Ballot trafficking General Election November 2020 and Runoff Election January 2021 periods

Counties: Atlanta metro area

Potential Violations: O.C.G.A. § 21-2-385 (a) Procedure for voting by absentee ballot; advance voting

INFORMATION IN SUPPORT OF COMPLAINT

As part of True the Vote's ongoing nonpartisan election integrity research and in response to reports of ballot trafficking in Georgia and other states across the country, we undertook certain efforts to examine this issue more closely. Following a detailed account of coordinated efforts to collect and deposit ballots in drop boxes across metro Atlanta, True the Vote obtained publicly available surveillance video as well as commercially available cell phone data which revealed concerning patterns of behavior consistent with the reports made to our organization. True the Vote hereby submits this Complaint to the Georgia Secretary of State detailing the potentially improper election efforts which took place during the General Election of November 2020 and Runoff Election of January 2021.

Acting upon information provided to us, True the Vote's contracted team of researchers and investigators spoke with several individuals regarding personal knowledge, methods, and organizations involved in ballot trafficking in Georgia. One such individual, hereinafter referred to as John Doe, admitted to personally participating and provided specific information about the ballot trafficking process. This information was provided under agreement of anonymity.¹

John Doe described a network of non-governmental organizations ("NGO"s) that worked together to facilitate a ballot trafficking scheme in Georgia. John Doe claimed to have been one of many individuals paid to collect and deliver absentee ballots during the early voting periods of the November 2020 General Election and the January 2021 Runoff Election. While acknowledging that others might view his actions as inappropriate, John Doe did

¹ It is imperative that True the Vote maintain confidentiality agreements made with persons willing to speak openly with the organization. First and foremost, True the Vote is primarily concerned for the safety of individuals willing to come forward to speak about such sensitive topics. True the Vote is not a law enforcement agency, we do not have the resources of the State, and we are unable to provide any safety guarantees to those individuals willing to provide information other than to keep our word that their identity will not be disclosed. Furthermore, for the same reason law enforcement agencies do not disclose the identities of their confidential informants, True the Vote must also maintain such confidences. To do otherwise would greatly inhibit future efforts of the organization as individuals would no longer be willing to speak openly about such matters. Finally, to the extent an individual admits to conduct constituting a crime, True the Vote is unable to offer immunity from prosecution. Informants would not be honest in their discussions if they lacked confidence that any admissions made would be held in the strictest of confidences and would not subject them to criminal prosecution in the future.

While True the Vote will not directly identify the individual who made the admission, the organization is able to provide the publicly available data we used in our research. As an office possessing investigative powers and the resources of the State, the identity of any individual who may have information pertinent to your efforts is discoverable in the data set now available to you. Working in conjunction with law enforcement, the State, in their discretion, can provide the necessary and appropriate safety guarantees and immunity protections for cooperating witnesses should that become necessary.

not seem to understand the unlawful nature of this conduct nor that it might constitute organized criminal activity. John Doe's perception was that he had been hired to do a job and it was appropriate to be paid for the services rendered.

John Doe's assignment included collecting ballots, both from voters in targeted neighborhoods and from NGOs that had their own ballot collection processes, delivering those ballots to other NGOs, picking up designated ballot bundles from the same group of NGOs, and depositing ballots into drop boxes spanning six counties in the metro Atlanta area. Each drop box delivery would typically include between 5 to 20 ballots. John Doe described a payment validation process which involved taking cell phone pictures of the drop box where ballots were deposited. Participants were compensated, typically at a rate of \$10 per ballot. John Doe stated he had been paid directly by one of these NGOs.²

Following this report, True the Vote submitted open records requests to obtain the surveillance video of various drop boxes across Georgia during the General Election of November 2020 and Runoff Election of January 2021. Despite a legal mandate to maintain this video, county officials were only able to produce an estimated 20% of the surveillance video requested in the counties of Fulton, DeKalb, Cobb, and Gwinnett.³ Nonetheless, in our initial review of the available 3 million minutes of surveillance video, we found compelling evidence to support the reports of absentee ballot trafficking conducted during the November 3, 2020, General Election and January 5, 2021, Runoff Election periods.

In addition to ordering surveillance video, True the Vote also purchased commercially available, anonymized, geospatial mobile device information. This cell phone data establishes what devices were at a particular location at a particular time but does not disclose any private information about a person's identity. There are a variety of uses for this type of data including product marketing and targeted messaging in political campaigns. This type of unique device identification data is highly desirable because of its accuracy and its use is becoming more mainstream as of late. In fact, virtually every cell phone user has received some type promotional or political text. Law enforcement, defense, and intelligence agencies have been using geospatial mobile device data to generate information on possible suspects or witnesses in investigations for several years. For the purposes of our research, True the Vote purchased such data and used it to identify patterns of potentially inappropriate election activities. After reviewing this data, True the Vote was able to confirm certain patterns of activity around absentee ballot drop boxes, as initially reported by John Doe.

During the Runoff Election period, in six counties in and around Atlanta, 552,987 cell phones came within a narrowly defined distance of ballot drop boxes during our study period. However, 242 unique devices made repeat trips to drop boxes averaging 23 trips each. These same 242 devices also went repeatedly, averaging eight trips each, to specific NGOs.

These 242 individual devices went to drop boxes a total of 5,668 times with approximately 40% of the visits occurring between the unusual hours of 12:00 a.m. and 5:00 a.m.

The review of surveillance video was queued according to our geospatial data analyses and focused on the device patterns that emerged from our research. The video, though often grainy and sometimes distant, revealed numerous unusual behaviors.

² John Doe stated the NGOs made the payments, but it was not entirely clear from his description whether participants were paid directly by the NGOs or through an intermediary.

³In separately filed complaints, we detail the missing video footage, including explanations afforded us by county election officials, to support further investigations and develop standards regarding critical aspects of surveillance video capture.

Individuals were observed attempting to deposit multiple ballots into the drop box. Sometimes, the person was attempting to deposit so many ballots that they were unable to fit them all in and the video shows ballots falling to the ground.

Additionally, in our cursory review of surveillance video it was confirmed that individuals made repeat visits to drop boxes.

Cars were observed with out-of-state license plates, including rental cars identifiable because of the sticker seal rental car companies affix to the driver's side door. This in itself is not necessarily problematic; however it is notable because these out of state and rental cars were driven by individuals who were also in our targeted study group of 242 devices.

Consistent with John Doe's report regarding the proof necessary to receive payment, individuals were observed taking cell phone photos, not of themselves, but of their ballot deposits or of the drop box after the ballots had been deposited.

Curiously, a change in behavior seemed to occur on or around December 23, 2020, the day after Arizona authorities announced that fingerprints on absentee ballot envelopes helped uncover an illegal ballot harvesting scheme in that state. After that announcement, individuals depositing ballots into drop boxes in Georgia are seen wearing blue surgical gloves. They often put them on just before picking up their stack of ballots and remove them as they exit the drop box area.

In conclusion, following John Doe's personal admission to participation in a large-scale ballot harvesting effort in Georgia, True the Vote obtained publicly available video footage and commercially available cell phone data which supports his account of these efforts. In the data we reviewed, the 242 mobile devices which repeatedly visited drop boxes also repeatedly visited locations associated with a select group of NGOs. Not only did these devices make repeat visits but a significant number of these visits, approximately 40%, were made during extremely unusual hours in the middle of the night. Additionally, surveillance footage shows numerous instances in which individuals deposited multiple ballots at a time – a practice which is prohibited under Georgia law except under very limited circumstances.⁴ Finally, consistent with John Doe's description of how participants were paid, individuals were seen taking photos of drop boxes or of ballots as they were deposited into a drop box.

True the Vote files this Complaint and provides this information to the Secretary of State as the arbiter of election integrity for the State of Georgia.⁵ In conjunction with an investigation and formal request by the Secretary of State's office, True the Vote will provide all publicly or commercially available information including the geospatial data and surveillance video to assist with any efforts undertaken by your office.⁶

⁴ O.C.G.A. § 21-2-385 (a) reads in pertinent part: Such envelope shall then be securely sealed and the elector shall then personally mail or personally deliver same to the board of registrars or absentee ballot clerk, provided that mailing or delivery may be made by the elector's mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, or an individual residing in the household of such elector. The absentee ballot of a disabled elector may be mailed or delivered by the caregiver of such disabled elector, regardless of whether such caregiver resides in such disabled elector's household. The absentee ballot of an elector who is in custody in a jail or other detention facility may be mailed or delivered by any employee of such jail or facility having custody of such elector. An elector who is confined to a hospital on a primary or election day to whom an absentee ballot is delivered by the registrar or absentee ballot clerk shall then and there vote the ballot, seal it properly, and return it to the registrar or absentee ballot clerk.

⁵ In filing this Complaint, True the Vote makes no assessment of the legality of any activity seen in the data or surveillance video but merely provides this information for official State use as deemed appropriate by your agency.

⁶ This raw and unedited data purchased by True the Vote does not include any analysis conducted by True the Vote or its contractors nor does it include any list of specific IMEI devices of interest. Furthermore, this data does not include any identifying information about any individuals other than commercially available, anonymized, IMEI data in its original form.

TRUE THE VOTE

November 30, 2021

Brad Raffensperger
Secretary of State
Georgia Capitol
206 Washington St SW
Atlanta, GA 30334

Complainant: True the Vote, PO Box 3109 #19128 Houston, TX 77253-3109

Complaint: Unexplained Ballot handoff during Runoff Election 2021

County: Fulton

Potential Violations: State Election Board Rule 183-1-14-0.6-.14 (5)¹, Federal Code 52 USC 20701² both regarding documentation preservation, multiple additional violations may exist based on investigation.

DESCRIPTION

On December 26, 2020 surveillance video captured by Fulton County controlled equipment used at the Metropolitan Library absentee ballot dropbox location clearly shows a handoff of what appears to be a very large stack of ballot envelopes. Based on the footage, we estimate there were approximately 250 ballot envelopes involved.

The exchange occurred between two individuals who were collecting ballots ("Ballot Collector") from the library dropbox and an unknown individual who came out from inside the library. While Ballot Collector #1 emptied the contents of the dropbox, Ballot Collector #2 knocked on the door of the library and waited for the individual inside the library to come to the door. When the individual opened the door, Ballot Collector #2 handed the individual the stack of ballot envelopes, along with a piece of paper.

Ballot Collector #1 completed the task of removing ballots from the dropbox, emptying the box's contents into a transfer bag, then both Ballot Collectors waited for the individual inside the library, who returned with a piece of paper and handed it to Ballot Collector #1.

Additionally, surveillance video from the same location revealed another departure from typical observed process. In this instance, a person from inside the library came outside and handed the dropbox key to one of the Ballot Collectors,

¹ State Election Board Rule 183-1-14-0.6-.14, Sec 5 Video recordings of the drop box locations must be retained by the county registrars for 30 days after the final certification of the election, or until **conclusion of any contest involving an election on the ballot in the county jurisdiction**, whichever is later, and shall be made available to Secretary of State investigators upon request.

² Federal Code 52 USC 20701. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation. Every officer of election shall retain and preserve, **for a period of twenty-two months** from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, 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, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

along with an additional document exchange. The time stamp on this video indicates this occurred on January 5, 2021 but the metadata in the video suggests it was actually recorded on an earlier date.

The behaviors exhibited in these two videos are inconsistent with procedures observed in other available surveillance videos involving ballot collection.

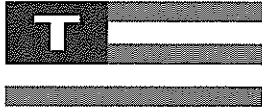
Though open records requests, True the Vote has received and reviewed all available Chain of Custody (CoC) documents for this location, during this election period. Fulton County did not provide a chain of custody document for December 26, 2020.

In an effort to better understand what could have happened to explain these actions, on October 27, 2021 True the Vote submitted an open records request to Fulton County asking for :

"All documentation, including all written communications, proofs of delivery, tracking documentation, or similar, related to absentee ballots, absentee ballot envelopes, and any other election related materials delivered to the Metropolitan Library polling location in Atlanta, Georgia, between December 26, 2020 - December 29, 2020."

On November 4th, Fulton County notified us by email that **"No responsive records exist"**.

All available correspondence between Complainant and Fulton County is attached for your reference. Geospatial data and surveillance videos will be provided upon request.



TTV Research <research@truethevote.org>

Open Records Request :: R007758-102721

1 message

Fulton County Georgia <fultoncountyga@mycusthelp.net>
To: "research@truethevote.org" <research@truethevote.org>

Wed, Oct 27, 2021 at 2:16 PM

Dear Catherine Engelbrechet:

Thank you for submitting an Open Records Request to Fulton County, Georgia.

The County received your Open Records Act request dated October 27, 2021 and has assigned the reference number R007758-102721 for tracking purposes.

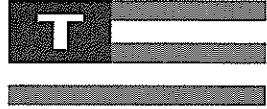
Record(s) Requested: *All documentation, including all written communications, proofs of delivery, tracking documentation, or similar, related to absentee ballots, absentee ballot envelopes, and any other election related materials delivered to the Metropolitan Library polling location in Atlanta, Georgia, between December 26, 2020 - December 29, 2020. See attached*

We will send out the request to the appropriate department(s). If you should have any questions or concerns about the requested documents, please feel free to contact the Fulton County Open Records team. If there should be a cost associated with the Open Records Request we will contact you in a timely manner.

Fulton County has a new Open Records Center that allows you to submit and track Open Records Act requests. Please visit the link below to monitor request progress and submit future requests.

Open Records Center

Fulton County Open Records



TTV Research <research@truethevote.org>

[Records Center] Open Records Request :: R007758-102721

Fulton County Georgia <fultoncountyga@mycusthelp.net>
To: "research@truethevote.org" <research@truethevote.org>

Thu, Nov 4, 2021 at 10:18 AM

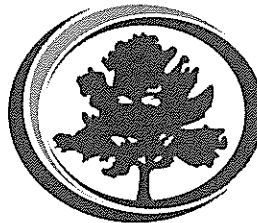
--- Please respond above this line ---

OFFICE OF THE COUNTY ATTORNEY

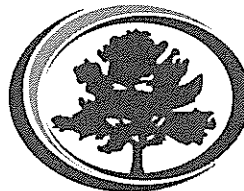
141 PRYOR STREET, S.W.
SUITE 4038
ATLANTA, GEORGIA 30303

STEVEN ROSENBERG
OPEN RECORDS CUSTODIAN

TELEPHONE (404) 612-0259
FACSIMILE (404) 730 -6324



**FULTON
COUNTY**



**FULTON
COUNTY**

November 04, 2021

SENT VIA EMAIL:

Dear Catherine Engelbrechet:

This correspondence is in response to your Open Records Act Request Reference#: R007758-102721 dated October 27, 2021.
Your request sought the following:

All documentation, including all written communications, proofs of delivery, tracking documentation, or similar, related to absentee ballots, absentee ballot envelopes, and any other election related materials delivered to the Metropolitan Library polling location in Atlanta, Georgia, between December 26, 2020 - December 29, 2020.

No responsive records exist.

Please feel free to contact me at if you have any questions.

TRUE THE VOTE

November 30, 2021

Brad Raffensperger
Secretary of State
Georgia Capitol
206 Washington St SW
Atlanta, GA 30334

Complainant: True the Vote, PO Box 3109 #19128 Houston, TX 77253-3109

Complaint: Missing Ballot Dropbox Surveillance Video - General Election 2020

County: Fulton, Gwinnett

Potential Violations: No retention during active litigation as required by State Election Board Rule 183-1-14-0.6-.14 (5)¹ No retention for 22 months as required by Federal Code 52 USC 20701²

DESCRIPTION

Fulton County

On June 21 2021, True the Vote submitted an open records request seeking all ballot dropbox surveillance video recorded during the 2020 General Election.

On June 29 2021, Fulton County responded to our request, stating the following: "Per our IT department, the attached request is referencing all 38 ballot box locations 24/7 recordings. All available ballot locations stored recordings only goes back to Oct 30, 2020 – November 5, 2020 with the exception of Dogwood Library. It will take an estimated 6 months to complete this request. If they are able to complete this request, the estimated cost would be between \$15,000-\$20,000. A pre-payment would be required to fulfill this request. We understand this is a huge cost and time estimate. If you would like to pare down your request, I can relay the message to our IT department and perhaps, it may scale down the cost. Your request will be paused while a response is pending."

True the Vote replied on the same day, June 29 2021, asking for explanation as to the lack of video availability, which was in direct violation of Section 5 of Georgia's State Election Board Rule 183-1-14-0.6-.14 for Secure Absentee Ballot Drop Boxes and Federal Code 52 USC 20701.

¹ State Election Board Rule 183-1-14-0.6-.14, Sec 5 Video recordings of the dropbox locations must be retained by the county registrars for 30 days after the final certification of the election, or until **conclusion of any contest involving an election on the ballot in the county jurisdiction**, whichever is later, and shall be made available to Secretary of State investigators upon request.

² Federal Code 52 USC 20701. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation. Every officer of election shall retain and preserve, **for a period of twenty-two months** from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, 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, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

On July 6 2021, the Fulton County Office of the County Attorney replied: **"I do not have an explanation I can provide other than they do not exist."**

On November 17 2021, True the Vote submitted an open records request seeking a list of every instance in which dropbox surveillance video footage was paid for or otherwise procured and transmitted from November 4 2020 to the present. We asked for the requestor's name; the dates and dropbox locations for which the video was requested, the dollar amount paid, the date video was picked up, confirmation of the dropbox locations, dates for which video was provided, and any documentation indicating proof of delivery or proof of release.

On November 18 2021, the Fulton County Office of the County Attorney replied with the following explanation: **"No records exist."**

Gwinnett County

On July 6 2021, True the Vote submitted an open records request to Gwinnett County, seeking all ballot dropbox surveillance video recorded during the 2020 General Election.

On July 20 2021, we were notified that our request was fulfilled. We submitted payment and picked up the provided hard drives. Upon review of the received hard drives, we noted we had not been provided with video for dropbox locations at Bogan Park Community Recreation Center, Dacula Park Activity Building, Gwinnett Voter Registration & Election Location, Peachtree Corners Branch Library, or George Pierce Park Community Recreation Center. We immediately wrote to the County and inquired as to the missing video, which was in direct violation of Section 5 of Georgia's State Election Board Rule 183-1-14-0.6-.14 for Secure Absentee Ballot Drop Boxes and Federal Code 52 USC 20701.

After receiving no reply, we followed up with phone calls. To date there has been no response to explain why we were not provided with video from these locations.

The missing video from the Gwinnett Voter Registration & Election Location is of particular concern. In True the Vote's review of ballot chain of custody records for this dropbox we identified a number of unusually high ballot surges, the peak of which was noted across Columbus Day weekend 2020, specifically from Sunday October 11 until the morning of October 12.

There were two boxes at this location, one located inside the government building and one outside. Chain of custody documents did not consistently record ballot count by interior or exterior location, but we know that on this extended holiday weekend, the office was closed, so only the exterior dropbox was available. According to Gwinnett County chain of custody records, on Monday, October 12, 2020, at 8:35am, 1,962 ballots were collected, a count significantly higher than any other day during the election cycle.

In True the Vote's review of publicly available geospatial data, fewer than 25 unique cell phone devices were proximate to the dropbox during the period of time in which 1,962 ballots were deposited.

According to the county, no surveillance video is available for this dropbox.

All available correspondence between Complainant, Fulton County, and Gwinnett County is attached for your reference. Geospatial data will be provided upon request.

Message History (8)

↩ On 7/20/2021 4:11:19 PM, Catherine Engelbrecht wrote:

Good Afternoon,

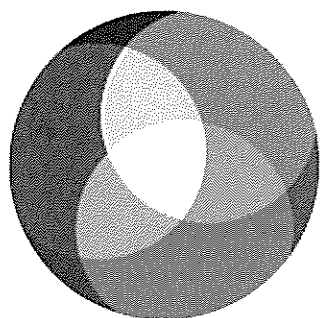
I just picked up the ballot drop box videos for November and I noticed there are 5 locations that are missing completely. They include Bogan Park Community Recreation Center, Dacula Park Activity Building, Gwinnett Voter Registrations & Elections Location, Peachtree Corners Branch Library, George Pierce Park Community Recreation Center. Can you please let me know why these videos were not included?

Thank you so much!

✉ On 7/20/2021 2:04:11 PM, Gwinnett County Open Records wrote:

Subject: Payment Received on Invoice :: R041030-070621

Body:



Gwinnett

RE: PUBLIC RECORDS REQUEST of July 06, 2021, Reference # R041030-070621

11/24/21, 9:24 AM

True the Vote Mail - [Records Center] Open Records Request R007758-102721

Sincerely,

Mariska Bodison

Registration & Elections

xc: Steven E. Rosenberg, Open Records Custodian
Shana Eatmon, Legal Assistant
Unique McCray, Administrative Coordinator II

To monitor the progress, update this request, and retrieve responsive records, please log into the Fulton County Open Records Center.

✉ On 7/20/2021 9:10:40 AM, Gwinnett County Open Records wrote:

Subject: [Records Center] Public Records Request :: R041030-070621

Body:

RE: OPEN RECORDS REQUEST of July 06, 2021, Reference # R041030-070621

Dear Catherine Engelbrecht,

Gwinnett County received an open records request from you on July 06, 2021. Your request mentioned:

"Dear Gwinnett County Board of Elections,

I am requesting copies of the video recordings created by security cameras used to surveil all ballot drop boxes in Gwinnett County for the November 2020 Election under the Georgia Open Records Law OCGA §50-18-70. We respectfully request to be provided with electronic copies of each of the following documents, files, or images, as soon as they become available. Specifically, we are requesting video captured during the absentee ballot voting period for the November 2020 General Election, beginning when the boxes were opened in October through the election until dropbox security footage stopped recording. Please denote the location and date of each recording.

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address. As provided in the open records law, O.C.G.A. § 50-18-71(b)(1)(A), I will expect your response within three (3) business days.

If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely. O.C.G.A. § 50-18-71(d). Also, please provide all segregable portions of otherwise exempt material."

Gwinnett County has reviewed its files and has located responsive records to your request. These records can be acquired at Gwinnett County Community Services Office, 3rd Floor located at:

75 Langley Drive
Lawrenceville, GA 30046

If you have any questions or wish to discuss this further, please contact me.

Sincerely,

John Register john.register@gwinnettcountry.com

770-822-8889

Community Services

Your invoice is ready. Please login to the **Gwinnett County Public Records Center** to make an online payment.

You can also make a check or money order payable to: Gwinnett County

ATTN: Open Records Officer

75 Langley Drive

Lawrenceville, GA 30046-6935

If you have any questions, please contact my office at 770.822.8889.

Sincerely,

John Register

Community Services

To monitor the progress or update this request please log into the **Open Records Center**

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GovQA

On 7/20/2021 1:49:18 PM, Gwinnett County Open Records wrote:

Subject: [Records Center] Public Records Request :: R041030-070621

Body:

RE: OPEN RECORDS REQUEST of July 06, 2021., Reference # R041030-070621.

Dear Catherine Engelbrecht,

Your invoice is now available for payment in your online portal. Please note, we do not accept AMEX.

If you have any questions, please contact my office at 770.822.8889.

Sincerely,

John Register
Community Services

On 7/20/2021 1:48:26 PM, Gwinnett County Open Records wrote:

Attachments: [INV21-R041030-2.pdf](#)

Subject: INVOICE - PUBLIC RECORDS REQUEST :: R041030-070621

Body:



GWINNETT COUNTY
OPEN RECORDS OFFICE

75 Langley Drive | Lawrenceville, GA 30046-6935
(O) 770.822.8700 | (F) 770.822.8790
www.gwinnettcounty.com

RE: PUBLIC RECORDS REQUEST of July 06, 2021, Reference # R041030-070621.

Dear Catherine Engelbrecht,

✉ On 7/8/2021 10:25:16 AM, Gwinnett County Open Records wrote:

Subject: [Records Center] Public Records Request :: R041030-070621

Body: RE: OPEN RECORDS REQUEST of July 06, 2021., Reference # R041030-070621.

Dear Catherine Engelbrecht,

Gwinnett County timely responds to your Open Records Request received from you on July 06, 2021. Your request mentioned:

"Dear Gwinnett County Board of Elections,

I am requesting copies of the video recordings created by security cameras used to surveil all ballot drop boxes in Gwinnett County for the November 2020 Election under the Georgia Open Records Law OCGA §50-18-70. We respectfully request to be provided with electronic copies of each of the following documents, files, or images, as soon as they become available. Specifically, we are requesting video captured during the absentee ballot voting period for the November 2020 General Election, beginning when the boxes were opened in October through the election until dropbox security footage stopped recording. Please denote the location and date of each recording.

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address. As provided in the open records law, O.C.G.A. § 50-18-71(b)(1)(A), I will expect your response within three (3) business days.

If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely. O.C.G.A. § 50-18-71(d). Also, please provide all segregable portions of otherwise exempt material."

After reviewing your request, it has been determined that responsive records exist.

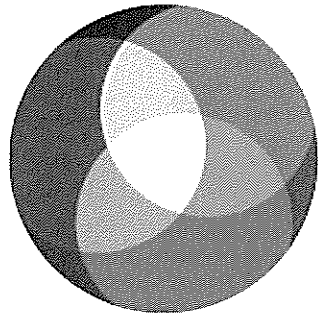
Gwinnett County has access to the requested video. There will be a charge for the hard drives that the video will be transferred to. We anticipate the video ready to be picked up by Friday, July 16, 2021 if not sooner.

If you have any questions, please feel free to contact me at 770.822.8871.

Sincerely,

Lynn Ledford
Division Director
Community Services

✉ On 7/6/2021 3:17:12 PM, Gwinnett County Open Records wrote:



Gwinnett

Dear Catherine Engelbrecht:

Thank you for your interest in public records of Gwinnett County. Your request has been received and is being processed in accordance with the Georgia Open Records Act. Your request was received in this office on 7/6/2021 and given the reference number R041030-070621 for tracking purposes.

Records Requested: Dear Gwinnett County Board of Elections,

I am requesting copies of the video recordings created by security cameras used to surveil all ballot drop boxes in Gwinnett County for the November 2020 Election under the Georgia Open Records Law OCGA §50-18-70. We respectfully request to be provided with electronic copies of each of the following documents, files, or images, as soon as they become available. Specifically, we are requesting video captured during the absentee ballot voting period for the November 2020 General Election, beginning when the boxes were opened in October through the election until dropbox security footage stopped recording. Please denote the location and date of each recording.

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address. As provided in the open records law, O.C.G.A. § 50-18-71(b)(1)(A), I will expect your response within three (3) business days.



**GWINNETT COUNTY
OPEN RECORDS OFFICE**

75 Langley Drive | Lawrenceville, GA 30046-6935
(O) 770 822 8700 | (F) 770 822 8790
www.gwinnettcounty.com

Remit To:

Gwinnett Justice &
Administration Center
Attn: Open Records Officer
75 Langley Drive
Lawrenceville, GA 30046

I Invoice Summary

Invoice No: INV21-R041030-2
Request Reference Number: R041030-070621
Invoice Date: 7/20/2021
Due Date: 8/19/2021
Status: Open
Balance Due: \$1,278.03

Bill To:

Catherine Engelbrecht
PO Box 3109 #19128
Houston 77253

Category	Description	Details	Cost	Unit	Add Overhead	Total Quantity	Quantity Waived	Quantity Charged	Total
Misc. Fees	Hard Drive		\$70.00	Variable		16.00	0.00	16.00	\$1,120.00
Labor Fees	Labor Time	hourly rate to retrieve records	\$18.75	Variable		1.75	0.00	1.75	\$32.81
Labor Fees	Labor Time	hourly rate to retrieve records	\$32.81	Variable		2.00	0.00	2.00	\$65.62
Labor Fees	Labor Time	hourly rate to retrieve records	\$14.90	Variable		4.00	0.00	4.00	\$59.60
15 Min Waived			\$0.00	Per Hour		0.25	0.00	0.25	\$0.00

Comments:

Totals:

Total: \$1,278.03
Payments: \$0.00
Balance Due: \$1,278.03

Pay online or pay by cash, check or money order made payable to Gwinnett County

If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely. O.C.G.A. § 50-18-71(d). Also, please provide all segregable portions of otherwise exempt material.


Your request will be forwarded to the relevant department(s) to locate the information you seek and to determine the volume and any costs associated with satisfying your request. You will be contacted about the availability and/or provided with copies of the records in question. PLEASE NOTE: The Georgia Open Records Act does not require a governmental body to create new information, to do legal research, or to answer questions.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Again, thank you for using the Open Records Center.

Gwinnett County

To monitor the progress or update this request please log into the [Open Records Center](#)



 On 7/6/2021 3:17:11 PM, Catherine Engelbrecht wrote:

Request Created on Public Portal

Dear Catherine Engelbrecht,

We have received your payment on invoice number INV21-R041030-2 on 07/20/2021 for Request Number R041030-070621.

If you are paying the estimate, we will now begin working on gathering documents responsive to your request. Once we have gathered the documents, a final statement of the remaining balance owed will be sent to you. This amount may change from the estimate depending on how much time and labor is actually spent on your request. Full payment is required before we release the records to you.

If you are making your final payment, we will contact you once your request is fulfilled and the documents are available for you online at the Open Records Center.

Sincerely,

Gwinnett County

To monitor the progress or update this request please log into the [Open Records Center](#)

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EXHIBIT 3

From: [Brock Akers](#)
To: [Ellis, Steven](#)
Subject: Accepting Service
Date: Thursday, April 21, 2022 10:33:56 AM
Attachments: [image001.png](#)

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Please forgive the delay. I can confirm that I will be able to accept service for Opsec and Gregg Phillips, in addition to True the Vote and Catherine Engelbrecht. I know you wanted to send it to me in a hard copy, which is fine. But, it would be helpful to get an electronic version so we may be working on it. Thanks.

Call if you have any questions or concerns.

Brock

BROCK C. AKERS
ATTORNEY AT LAW

THE CLOCKTOWER BUILDING, 3401 ALLEN PARKWAY,
SUITE 101 HOUSTON, TX 77019
T: 713-877-2500 / 713-552-0232 | M: 713-823-9595 | F: 713-583-8662
BCA@AKERSFIRM.COM | WWW.AKERSFIRM.COM



The information in this e-mail is legally privileged and confidential information intended to be reviewed by only the individual or organization named above. If you are not the intended recipient or an authorized representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this e-mail and its attachments, if any, or the information contained herein is prohibited. If you have received this e-mail in error, please notify the sender and delete this e-mail from your system.

EXHIBIT 4

Elizabeth Vaughan

Subject: FW: Accepting Service
Attachments: ENGLEBRECHT-SUBPONEA.pdf; OPSEC-SUBPONEA.pdf; PHILLIPS-SUBPONEA.pdf; TRUE-THE-VOTE-SUBPONEA.pdf

From: Ellis, Steven <sellis@sos.ga.gov>
Sent: Thursday, April 21, 2022 8:59 PM
To: Brock Akers <bca@akersfirm.com>
Subject: RE: Accepting Service

Mr. Akers,

Thank you for getting back to me concerning acceptance of service for these subpoenas. I appreciate you letting me know you can accept service for OPSEC and Gregory Phillips in addition to True the Vote and Catherine Engelbrecht. Per your request, I have attached scanned PDF copies of the signed subpoenas and accompanying exhibit list to this email. Our office will also dispatch hard copies of the same via certified mail / signature receipt requested or common carrier to your law office next week. Please let me know if you have any questions. Thank you for your assistance in this matter.

Steven Ellis

Deputy General Counsel
Georgia Secretary of State
Phone: 470-312-2744
Mobile 470-829-8203
Sellis@sos.ga.gov



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From: Brock Akers <bca@akersfirm.com>
Sent: Thursday, April 21, 2022 10:34 AM
To: Ellis, Steven <sellis@sos.ga.gov>
Subject: Accepting Service

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

I can confirm that I will be able to accept service for Opsec and Gregg Phillips, in addition to True the Vote and Catherine Engelbrecht. I know you wanted to send it to me in a hard copy, which is fine. But, it would be helpful to get an electronic version so we may be working on it. Thanks.

Call if you have any questions or concerns.

Brock

BROCK C. AKERS
ATTORNEY AT LAW

THE CLOCKTOWER BUILDING, 3401 ALLEN PARKWAY,
SUITE 101 HOUSTON, TX 77019
T: 713-877-2500 / 713-552-0232 | M: 713-823-9595 | F: 1-713-583-8662
BCA@AKERSFIRM.COM | WWW.AKERSFIRM.COM



The information in this e-mail is legally privileged and confidential information intended to be reviewed by only the individual or organ authorized representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this e-mail is prohibited. If you have received this e-mail in error, please notify the sender and delete this e-mail from your system.

EXHIBIT 5

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

True the Vote
 PO Box 3109 #19128
 Houston, TX 77253

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Signature
 Agent

B. Received by (Printed Name)
 Patricia Ann Nowson

C. Date of Delivery
 12/8/12

Addresser's address different from item 1? Yes No
 Deliver to alternate delivery address below:

1. Article Number: 9590 9402 6554 1028 6309 16

2. Article Number: 7018 0360 0000 499B 953E

PS Form 3811, July 2020 PSN 7530-02-000-9053

3. Service Type
 Adult Signature
 Adult Signature Restricted Delivery
 Certified Mail®
 Insured Mail (over \$500)
 Registered Mail™
 Registered Mail Restricted Delivery
 Signature Confirmation™
 Signature Confirmation Restricted Delivery
 Priority Mail Express®
 Registered Mail™
 Registered Mail Restricted Delivery
 Signature Confirmation™
 Signature Confirmation Restricted Delivery

4. Restricted Delivery
 All Restricted Delivery
 Restricted Delivery
 Restricted Delivery

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

3090 0002 0464 9762



EXHIBIT 6

GREGOR | WYNNE | ARNEY, PLLC

MICHAEL J. WYNNE
TWO HOUSTON CENTER
909 FANNIN STREET, STE. 3800
HOUSTON, TX 77010
DIRECT: (713) 331-2458
CELL: (281) 450-7403
E-MAIL: MWYNNE@GWAFIRM.COM

May 5, 2023

Elizabeth Vaughan
Assistant Attorney General
Office of the Attorney General Chris Carr
Government Services and Employment
Georgia Department of Law
40 Capitol Square SW
Atlanta, GA 30334

Re. **SEB Case No. 2022-003**; November 30, 2021, Complaints Directed to Secretary of State Brad Raffensburger, concerning observed violations of state and federal election law and regulations (collectively, the “Complaints”)

Dear Ms. Vaughan:

We appreciated the opportunity to have a constructive discussion last week about the referenced Complaints and associated follow-up subpoenas duces tecum dated April 21, 2022, directed to True the Vote, OPSEC, Catherine Engelbrecht and Gregg Phillips (“Complainants”). As you know, the subpoenas each seek eleven (11) broad categories of data and other information. This would be in addition to the data already provided, which Complainants believe itself provides an exceptional launching pad for a law enforcement investigation.

But now we reach an impasse.

In many numbered categories the subpoena seeks “recordings, transcripts, summaries, testimony, statements, witness interviews, notes, or other documents... .” Responding in full as the subpoenas are worded would require Complainants’ disclosing personal identifying information of persons to whom Complainants have pledged confidentiality and who came forward at risk to their personal safety and security to varying degrees based on their individual circumstances. We cannot compromise this pledge.

As True the Vote in its November 30, 2021, stated, it is engaged in ongoing “non-partisan election integrity research” in response to reports of irregularities, here ballot trafficking, received from persons and entities in Georgia and across the country. Again, Complainants obviously do not have authority to issue legal process and to take the next steps.

If it remains the position of the Attorney General's Office and the Georgia Bureau of Investigation that any further official investigation by Georgia law enforcement concerning the serious allegations in the Complaints cannot and will not go forward unless Complainants reveal the identity and personal information concerning those who came forward to report their observations of wrongdoing, there is unfortunately little we can do together on this one. We disagree with Director Reynolds's assessment there is insufficient probable cause at this point to proceed with formal legal process available only to law enforcement.

Consequently, with another general election pending, it is in everyone's interest to get on with other matters and to do all we can to make sure this next one goes well and is conducted in a manner that is compliant and fair to all.

To that end, Complainants respectfully withdraw the Complaints referenced above.

Sincerely,

/s/ Michael J. Wynne

Michael J. Wynne
Counsel for Complainants

CC: Catherine Engelbrecht
Gregg Phillips
Brock Akers
David Shafer, Chairman, Georgia Republican Party

EXHIBIT 7



STATE ELECTION BOARD

May 19, 2023

Mr. Michael J. Wynne
Gregor Wynne Arney, PLLC
Two Houston Center
909 Fannin Street, Ste. 3800
Houston, Texas 77010

Re: SEB Case No. 2022-003

Dear Mr. Wynne:

I reviewed your letter to Ms. Vaughn dated May 5, 2023, regarding the subpoenas dated April 21, 2022, that were served on True the Vote, OPSEC, Catherine Engelbrecht and Gregg Phillips. Your clients have not responded to the subpoenas. The State Election Board opened an investigation of the “serious allegations in the Complaints” initiated by the complainants and the investigation is ongoing. For those reasons, the complaints are not withdrawn, and I have requested the Georgia Attorney General’s office to seek enforcement of the subpoenas.

Sincerely,

William S. Duffey, Jr.

William S. Duffey, Jr.
Chair, State Election Board

cc: Ms. Elizabeth Vaughan
Members of the State Election Board

EXHIBIT 8



GEORGIA DEPARTMENT OF LAW

40 Capitol Square SW
Atlanta, Georgia 30334-1300

CHRISTOPHER M. CARR
ATTORNEY GENERAL

www.law.ga.gov
(404) 458-3600

Writer's Direct: 404-458-3549
evaughan@law.ga.gov

May 19, 2023

SENT VIA EMAIL

Michael J. Wynne
Gregor Wynne Arney, PLLC
Two Houston Center
909 Fannin Street, Suite 3800
Houston, TX 77010
Email: mwynne@gwafirm.com

Re: State Election Board Case No. 2022-003

Dear Mr. Wynne:

I provided your May 5, 2023, letter to the Honorable William S. Duffey, Jr., Chair of the State Election Board (the "SEB"). In it you stated that your clients withdraw the complaint in SEB Case No. 2022-003. Chairman Duffey has declined your offer to withdraw the complaint and asked us to seek enforcement of the subpoenas issued in this case, which remains an open SEB investigation.

As you noted in your May 5, 2023, letter, the allegations asserted in the complaint are serious allegations, and the SEB takes them seriously. Chairman Duffey has reiterated the SEB resolve that the Attorney General's office seek enforcement of the subpoenas. Our office will begin with enforcement of the subpoena as it applies to True the Vote.

In accordance with Rule 6.4(B) of the Uniform Rules of Superior Courts of Georgia we should confer regarding the objections that you raised and attempt to resolve them prior to my office asking a superior court to compel True the Vote's response to the subpoena. Your main objection is that your clients "pledged confidentiality" regarding certain information sought in the subpoena. You do not specify a basis for this objection, and do not state that it is based on some legally cognizable principle or privilege. Your letter also refers to a general "risk to [your clients']

personal safety and security to varying degrees based on their individual circumstances,” but do not provide information or context to explain this basis for refused to produce information in response to the subpoena.

Without more, I do not believe there is grounds for a protective order. We should, however, engage in a good faith discussion to attempt to resolve these issues as soon as practicable, but no later than May 23, 2023.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth Vaughan". The signature is written in a cursive, flowing style.

Elizabeth Vaughan
Assistant Attorney General

Enclosure

cc: Brock Akers – sent via email to bca@akersfirm.com



STATE ELECTION BOARD

May 19, 2023

Mr. Michael J. Wynne
Gregor Wynne Arney, PLLC
Two Houston Center
909 Fannin Street, Ste. 3800
Houston, Texas 77010

Re: SEB Case No. 2022-003

Dear Mr. Wynne:

I reviewed your letter to Ms. Vaughn dated May 5, 2023, regarding the subpoenas dated April 21, 2022, that were served on True the Vote, OPSEC, Catherine Engelbrecht and Gregg Phillips. Your clients have not responded to the subpoenas. The State Election Board opened an investigation of the “serious allegations in the Complaints” initiated by the complainants and the investigation is ongoing. For those reasons, the complaints are not withdrawn, and I have requested the Georgia Attorney General’s office to seek enforcement of the subpoenas.

Sincerely,

William S. Duffey, Jr.

William S. Duffey, Jr.
Chair, State Election Board

cc: Ms. Elizabeth Vaughan
Members of the State Election Board

EXHIBIT 9

GREGOR | WYNNE | ARNEY, PLLC

MICHAEL J. WYNNE
TWO HOUSTON CENTER
909 FANNIN STREET, STE. 3800
HOUSTON, TX 77010
DIRECT: (713) 331-2458
CELL: (281) 450-7403
E-MAIL: MWYNNE@GWAFIRM.COM

June 14, 2023

Elizabeth Vaughan
Assistant Attorney General
Office of the Attorney General Chris Carr
Government Services and Employment
Georgia Department of Law
40 Capitol Square SW
Atlanta, GA 30334

Re. **SEB Case No. 2022-003**; November 30, 2021, Complaint Directed to Secretary of State Brad Raffensperger, concerning observed violations of state and federal election law and regulations (the “Complaint”)

Dear Ms. Vaughan:

True the Vote, Catherine Engelbrecht, Gregg Phillips, and OPSEC (collectively “Complainants”) respond as follows to the subpoenas duces tecum in the referenced matter:

1. The “detailed account of coordinated efforts to collect and deposit ballots in drop boxes across metro Atlanta” referenced in True the Vote’s November 30, 2021 complaint submitted to the Georgia Secretary of State (“Complaint”), including any recordings, transcripts, summaries, testimony, statements, witness interviews, notes, or other documents describing such account, including the identities and contact information for the people who gave such detailed account.

Response:

To the best of their knowledge and ability, the requested items in Complainants’ possession, custody, or control have already been provided to the state of Georgia, specifically to the Georgia Bureau of Investigation, except for ballot drop box video, which they are pleased to provide though the state already has it in its possession.. Complainants are ready to provide these documents and records again if Respondent needs another copy.

2. The identity and contact information of the “several individuals regarding personal knowledge, methods, and organizations involved in ballot trafficking in Georgia”

referenced in the Complaint and any recordings, transcripts, summaries, testimony, statements, witness interviews, notes or other documents describing what those individuals said.

Response:

Complainants do not know the identities and contact information for the cell phone owners referenced in their complaints. The geospatial research of cell phone travel patterns was conducted using data acquired from telemetric data aggregation companies, which compile marketing app signals identified only by a phone's International Mobile Equipment Identity (IMEI) number. Law enforcement can subpoena cell phone companies for the phone owner identities matching the IMEI's. To the best of their knowledge and ability, all other responsive items in Complainants' possession, custody, or control have been provided to the state of Georgia,. With the exception of ballot drop box video, which Complainants are pleased to provide but which the state already has in its possession. Complainants are ready to provide these documents and records again if Respondent needs another copy.

3. The identity and contact information of the "contracted team of researchers and investigators" referenced in the Complaint and any recordings, transcripts, testimonies, statements, summaries, witness interviews, notes, or other documents evidencing what the "several individuals regarding personal knowledge, methods, and organization involved in ballot trafficking in Georgia, told those researchers and investigators.

Response:

Complainants decline to provide the identities and contact information for the people described because doing so may put those persons in physical or personal jeopardy. This was proven to be a valid concern after the Georgia Bureau of Investigation disclosed two researchers' names in a letter published in *The Atlanta Journal Constitution* To the best of their knowledge and ability, all other responsive items in Complainants' possession, custody, or control have been provided to the state of Georgia. Complainants are ready to provide these documents and records again if Respondent needs another copy.

4. The identity and contact information for John Doe referenced in Complaint and any recordings, transcripts, testimonies, statements, summaries, witness interviews, notes, or other documents evidencing all statements John Doe made regarding his alleged participation in ballot harvesting in Georgia.

Response:

Complainants did not retain contact information for this individual and have no way of verifying the individual's identity. To the best of their knowledge, all other responsive items in Complainants' possession, custody, or control have been provided to the state of Georgia. Complainants are ready to provide those documents and records again if Respondent needs another copy.

5. The identity and contact information for John Doe's mother and any recordings, transcripts, testimonies, statements, summaries, witness interviews, notes or other documents evidencing statements she made regarding ballot harvesting in Georgia.

Response:

Complainants did not retain contact information for this individual and have no way of verifying the individual's identity. To the best of their knowledge, all other responsive items in Complainants' possession, custody, or control have been provided to the state of Georgia. Complainants are ready to provide those documents and records again if necessary.

6. Any recordings, transcripts, voicemails, summaries, notes, or other documents from True the Vote's Georgia Election Integrity Hotline, tip line, or other hotline regarding allegations of ballot harvesting in Georgia.

Response:

Complainants no longer have recordings, transcripts, voicemails, or notes from the Georgia Election Integrity Hotline. The Hotline was operational from approximately December 2020, until January 6, 2021. A summary of number of calls can be provided.

7. Any receipts, invoices, bills, or other documents evidencing any medical payments you made for the John Doe referenced in the Complaint.

Response:

Complainants do not possess any such records.

8. The identities of the "network of non-governmental organizations that worked together to facilitate a ballot trafficking scheme in Georgia" that John Doe allegedly described and any recordings, transcripts, testimonies, statements, summaries, witness interviews, notes, or other documents evidencing those statements.

Response:

To the best of their knowledge, the responsive requested items in Complainants' possession, custody, or control have already been provided to the state of Georgia, specifically to the Georgia Bureau of Investigation. Complainants are ready to provide those documents and records again if Respondent needs another copy.

9. The identities of the “ten hubs” in Atlanta that you allege participated in a ballot harvesting scheme in Georgia.

Response:

To the best of their knowledge, the responsive requested items in Complainants’ possession, custody, or control have already been provided to the state of Georgia, specifically to the Georgia Bureau of Investigation.. Complainants are ready to provide those documents and records again if Respondent needs another copy.

10. The identity and contact information for the “bartender who came in from South Carolina” to help with the alleged ballot harvesting scheme in Georgia and any recordings, transcripts, testimonies, statements, summaries, witness interviews, notes or other documents supporting this allegation.

Complainants do not know the identities and contact information of the cell phone owners referenced in their complaints. The geospatial research of cell phone travel patterns was conducted using data acquired from telemetric data aggregation companies, which compile marketing app signals identified by a phone’s International Mobile Equipment Identity (IMEI) number. Law enforcement can subpoena cell phone companies for the phone owner identities matching the IMEI’s. Complainants are ready to provide those documents and records again if Respondent needs another copy.

11. Any Non-disclosure agreements or confidentiality agreements you are relying on to withhold the disclosure of any documents or information being requested by this subpoena.

Complainants are not relying on any such documents in their responses to these subpoenas.

Should you still need to take the depositions sought, please let me know and we will make our best efforts to find mutually convenient times, dates, and locations, restrictions, and to address all other logistical matters.

Sincerely,

/s/ Michael J. Wynne

Michael J. Wynne
Counsel for Complainants

CC: Catherine Engelbrecht
Gregg Phillips
Brock Akers
David Shafer, Chairman, Georgia Republican Party

EXHIBIT 10

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June 30, 2023

Elizabeth Vaughan
Assistant Attorney General
John Smith
Assistant Attorney General
Office of the Attorney General Chris Carr
Government Services and Employment
Georgia Department of Law
40 Capitol Square SW
Atlanta, GA 30334

Re. **SEB Case No. 2022-003**; November 30, 2021, Complaint Directed to Secretary of State Brad Raffensburger, concerning observed violations of state and federal election law and regulations

Dear Ms. Vaughan and Mr. Smith:

Mulling over the language and timing of the subpoenas, your reaction to my earlier correspondence, and our communications last week, we are troubled. You issued administrative subpoenas to four persons or entities: True the Vote, Inc., OPSEC, LLC, Catherine Engelbrecht, and Gregg Phillips (“Parties Subpoenaed”). But only one, True the Vote, Inc., was the complainant. As my first communication indicated, our initial reaction was to provide for your convenience another copy of the material produced to the Georgia Bureau of Investigation a couple years ago. But the landscape has changed, and this gives us pause for several reasons:

1. There is now pending in the Northern District of Georgia, a multi-party lawsuit involving the same hazards of relying on drop boxes and their impact on election integrity. Discovery has not begun. Motions to dismiss grounded on Federal Rule of Civil Procedure 12(b) are set for oral argument August 24, 2023. If the case survives those initial motions, discovery undoubtedly will involve many of the same issues raised in the subpoenas. To the extent disclosures are not already limited by standing court orders, there likely will be a protective order limiting production to third parties of any kind. Engaging in parallel discovery in different levels and departments of government invites inconsistent and confusing rulings on, among other things, assertions of privilege and privacy.

2. As stated, True the Vote, Inc. was the only complainant. Recognizing that, seeking discovery from the other Subpoenaed Parties, including in particular OPSEC and Gregg Phillips goes far beyond the scope of the initial three complaints, which True the Vote in any event has withdrawn due to the lapse in time and the state's failure to investigate or react.
3. Several items in the subpoena are far beyond the scope of the three complaints, including but not limited of course to the request for medical records, which is only the most extreme example.
4. The law requires a subpoena to be domesticated. Tex. R. Civ. P. 201.2. None of the subpoenas have been domesticated.
5. There is a reason for this legal requirement of domestication. It provides a framework within which a dispute might be adjudicated, including most importantly between persons and entities residing in different states. In other words, there would be a case and a court in which disputes might be decided. This is critical where, as here, True the Vote insists it has an obligation not to disclose the identity of confidential sources, out of concern for their physical safety.

All of that said, the Subpoenaed Parties are committed to election integrity and the rule of law. With this in mind, we believe the best course is to allow the pending legal proceedings in the Northern District of Georgia to run their course. And again, we refer you to the materials provided to the Georgia Bureau of Investigation before the suit was filed.

Respectfully,

/s/ Michael J. Wynne

Michael J. Wynne

CC: Catherine Engelbrecht
Gregg Phillips
Brock Akers
David Shafer, Chairman, Georgia Republican Party