

GA Code 50-18-72 (a)44  
Data generated, kept,  
or received by an agency  
SHALL BE subject to  
inspection and



- MASSIVE EFFORT -  
BASED ON NON-FACTUAL  
ARGUMENTS TO DENY  
COPIES OF AUDITABLE  
PAPER BALLOTS.

copying. Paper ballots  
are data generated by  
BMD as a result of elector choice.

OFFICIAL ELECTION BULLETIN

May 27, 2022

TO: County Election Officials and County Registrars  
FROM: Ryan Germany, General Counsel  
RE: Open Records Request for Ballot Images

WHY WERE COPIES OF  
TABULATOR TAPES  
OFFERED. LAW  
SAYS THEY MUST  
BE SEALED BY  
CLERK w/ the BALLOTS.

GA Code 21-2-500



BALLOT  
IMAGES  
ARE  
AN ADD-  
ON OPEN  
RECORD  
NOT  
SUBSTITUTIONARY!

Many counties have received a request for copies of physical ballots (as opposed to ballot images). Physical ballots are not subject to public disclosure and Georgia courts have held that such documents are by law prohibited from being open to inspection by the general public. Ballot images created by the voting system are public, and you should provide copies of ballot images once your election project (which contains the ballot images) has been certified and you are able to fulfill the request.

FALSE. A CD-ROM w/ PROPRIETARY DATA.  
AND PAPER BALLOTS ARE AUDITABLE

MR. SMITH  
ASKED FOR  
RECORD  
MONTHS AFTER  
SEAL.

Physical ballots are not subject to open records. OCGA 21-2-574 makes possession of ballots by "any person, other than an officer charged by law with the care of ballots" a felony. Physical ballots should always be in your custody and control prior and required to be kept under seal. The argument made by the requestors that the ballots are not yet under seal is wrong and has been specifically rejected by Georgia courts. In an case seeking election records, the Georgia Court of Appeals concluded that when materials

ORR for  
BALLOT COPIES  
IS NOT A  
REQUEST  
TO TAKE  
CUSTODY!

FALSE  
CONTEXT

(such as ballots) are "statutorily designated to be kept under seal, it is by law prohibited or specifically exempted from being open to inspection by the general public and, therefore, is not an open record subject to disclosure." *Smith v. DeKalb County*, 288 Ga. App. 574 (2007). Physical ballots are election documents that are by law to be kept

CASE  
SAYS  
Because  
the  
CD-ROMS.

CD-ROMS  
WERE  
DESIGNATED  
SEALED  
AT THE  
TIME of  
the lawsuit.

under seal. The timing of the open records request does not change that designation or magically make documents that the law requires to be kept under seal open to public inspection.

Part to whole  
Fallacy.

The requestor also asks that instead of giving him access to the actual ballots, that you make a photocopy of the ballots. Under no circumstances should local election officials make copies of voted ballots as this would open you up to allegations of copying ballots or attempting to stuff the ballot box. It should not happen.

Election officials copy open records.

IN SEALED CONTAINERS  
(TAPE D).

GA Code 50-18-71 b  
(CONTRARY  
TO LAW).

Georgia law has dealt with the issue of transparency regarding voted ballots by expressly making scanned ballot images created by the voting system subject to public disclosure. OCGA 50-18-71(k). Physical ballots other than the ballot images that will be part of your certified election project are not subject to public disclosure and are specifically prohibited by law from being open to public disclosure.

FALSE

GA Code 50-18-71(a)

www.securevote.ga.com

THIS MEMO ASSERTED THIS BUT PROVIDED NO ORDER OR  
STATUTE EXEMPTING. DOMINION HAS AUDITABLE, NEW PAPER BALLOTS!