

October 28th, 2024

PROJECT 437

To: Georgia Sheriffs and Senior Deputies in All Counties
Georgia Election Officials in All Counties

**RE: PROJECT 437 TO ENFORCE UNIFORMITY OF ELECTION LAW IN
THE NOVEMBER 5th PRESIDENTIAL GENERAL ELECTION FOR
COUNTING OF VOTES AND CERTIFYING BY PAPER BALLOT**

This demand for immediate enforcement of the law is a result of repeated and imminent failure of our state and county government to execute the HUMAN counting of our votes by O.C.G.A. § 21-2-437, since the March 2020 Presidential Primary. State law and the Georgia Supreme Court require that our elections be conducted by paper ballot; poll officers must work together to count our votes by hand and generate ink tally papers as part of the required accounting for certifiable returns on Election Day. Georgia citizens are counting on you to enforce State law and avoid a repeat failure on November 5th!

The U.S. The Constitution requires that the **Times, Places, and Manners** of holding elections shall be prescribed in each State by the Legislature. (art. 1, § 4, cl. 1). **Article II of the Georgia Constitution requires that all elections be conducted in accordance with State laws.** This protects constitutional provisions and the rights of citizens. We the People call upon you to protect our state sovereignty in your jurisdiction.

Federal law defines “vote” to include the casting **and counting** of the vote. Federal voting areas in Georgia include over 2,700 Voting Precincts and hundreds of advance in-person polling locations within all county jurisdictions (52 U.S.C. § 10101(e)). These are **fixed locations** of election per O.C.G.A. § 21-2-265(a), where **hand count of paper ballot returns and ink tallies must occur as required accounting.**

Poll returns of paper ballot vote counts must be duly certified by **sworn** poll officers based upon O.C.G.A. §§ 21-2-420 & 21-2-437. This must occur **prior to transferring** the voted paper ballot property to county election superintendents and their staff. Yet, the forced transfer of this property within minutes of the closing of the polls on Nov. 5th is imminent.

Uniformity of law is essential, and lawless acts in our elections should **never be encouraged.** In an October 20, 2024 interview by The Washington Post, Secretary of State

Brad Raffensperger directly intimidated county-level compliance by calling hand counting of paper ballots “misguided and risky”¹

This statement is astounding since The Georgia Supreme Court ruled in *Rhoden v. Athens-Clarke Brd of Elections* (Oct. 19, 2020) that O.C.G.A. § 21-2-437 is in full force and effect, **despite having assistant technology of the optical scanning system**. Georgia taxpayers funded a system of **paper ballots**, which is stated in the definition for “optical scanning voting system” (O.C.G.A. § 21-2-2(19.1)). Therefore, the paper ballots **MUST BE HUMAN COUNTED FROM OUR PAPER BALLOTS AT OUR PRECINCT LOCATIONS**.

O.C.G.A. § 21-2-493(g), which governs county-level tabulation of returns states: “The figures **announced for all precincts shall be compared** by one of the assistants **with the tally paper** from the respective precincts.” There is no provision of Georgia Election Law allowing county agents to reconcile or consolidate the duly certified precinct returns with generated reports of any electronic system.

Georgia has only one chance to get this right - on Election Day, November 5th. An election is absolutely void when not held at the proper TIME and PLACE by persons qualified to hold it. *Smiley v. Gaskin*, 115 Ga. App. 547 (1967). This includes the election of presidential electors pursuant to 3 U.S.C. § 1 and U.S. Congressman per 2 U.S.C. § 9. Sworn election officials must perform their ministerial mandates of law required for PRECINCT, COUNTY, and STATE CERTIFICATION of only lawful returns per O.C.G.A. §§§ 21-2-437, 21-2-493 and 21-2-499, respectively. Poll officers must duly certify based on human hand count of the paper ballots and ink tallies of the votes printed on the paper ballots. County election officials cannot perform without duly certified precinct returns. Furthermore, the Governor cannot issue lawful certificates of election and commissions per O.C.G.A. § 21-2-502 without lawful county certifications. *Julie Adams v. Fulton County et al.*, Order 10.14.24.

All sworn poll officers, amounting to approximately 16,000 - 20,000 citizens, must receive the protection of these State laws in the conduct of their duties. Election officials must also be protected in the performance of their sworn duties. You must ensure that State laws are uniformly promulgated throughout your county to maintain order. This is so that the federal voting rights of each citizen are protected at the TIME and PLACE they vote.

Law enforcement officers must ensure that no sworn election official or poll officer should live in fear of arrest or criminal charges by the government for conducting paper ballot procedures according to O.C.G.A. § 21-2-437. This conclusion is upheld by an unambiguous ruling of The Georgia Supreme Court in *Rhoden*. Broad unlawful activities are imminent, as outlined in Attachment 1.

¹ *Press Release: Raffensperger Defends Georgia’s Election Integrity Act from Last Minute Changes*, <https://sos.ga.gov/news/raffensperger-defends-georgias-election-integrity-act-last-minute-changes-delaying-election> (last visited Oct 20, 2024). (Sec. Raffensperger stated: “Misguided efforts to impose new procedures like hand counting ballots at polling locations make it likely that Georgians will not know the results on Election Night. Additionally, having poll workers handle ballots at polling locations after they have been voted introduces a new and significant risk to chain of custody procedures.”)

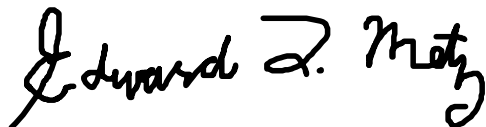
Any attempt through your county administration to charge poll officers with the commission of crimes in the performance of the lawful act of duly certifying the returns by accounting methods required in O.C.G.A. § 21-2-437 is against the interest of your citizens.

Each individual has ONE FIXED PLACE where they vote, called a Voting Precinct. The federal voting right includes the casting of the ballot, **counting** of the votes, and **including the counts in the certifiable vote totals**. Each citizen in your jurisdiction has a federal voting right derived directly from the U.S. Constitution, Art. 1, § 4. Therefore, you have an oath and duty to protect it. Election property belongs to the voters and taxpayers of your county. It appears that politicians are attempting to continue a four-year pattern of lawlessness.

Rules, regulations or policies cannot supersede State law. Any public officers or sworn poll officer involved in transferring our voted ballots property **BEFORE poll officers DULY CERTIFY** our votes at our Precinct Election Locations would appear to be acting contrary to O.C.G.A. § 21-2-437 and other laws included in Attachment 1.

Home Rule Your County. In preparation for November 5th, we call upon you to take all law enforcement and administrative action to prevent an unlawful and possibly voidable election. Our urgent request is following the strict requirements of Georgia Law and to avert any apparent criminal activity by government officials. It is not possible for law enforcement officers to avoid responsibility for this issue, as LEOs are implicated in these acts by Ga Rule and Reg. 183-1-12-.12 (a)(7). **We ask you to contact us by email with your decision to align with constitutional advocates and compliant counties by November 1, 2024.**

Respectfully submitted,



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Attached:

- 1 - Laws Governing Current Elections by Paper Ballot in the State of Georgia
- 2 - O.C.G.A §21-2-437. Procedure as to count and return of votes generally.
- 3 - Proposed Executive Order to Governor Kemp, 10.24.24, Disregarded.

**LAWS GOVERNING CURRENT PUBLIC
ELECTIONS BY PAPER BALLOT TO SUPPORT
ARTICLE IX COUNTY HOME RULE
THROUGHOUT THE STATE OF GEORGIA**

Rhoden v. Athens-Clarke Brd. of Elections 310 Ga. 266, 850 S.E.2d 146 (2020).

An election conducted with the optical scanning voting systems employing paper ballots on which electors cast votes with electronic ballot markers was an election conducted **with paper ballots** [not voting machines]. The system and ballot markers are “not a substitute for paper ballots.” O.C.G.A. § 21-2-437 properly applied. This law mandates Human Counting (a) & (b).

U.S. CONSTITUTION

Article 1, § 4, Cl. 1

The **TIMES, PLACES, AND MANNER** of holding elections for Senators and Representatives, shall be prescribed in each State by the **Legislature thereof**.

Article 2, § 1, Cl. 3

The Person having the greatest Number of **Votes** shall be the President, if such Number be a Majority of the whole Number of Electors appointed;

Federal Law

3 USC § 1 Time of appointing electors. The electors of President and Vice President shall be appointed, in each State, **on election day**, in accordance with the laws of the State enacted prior to election day.

2 USC § 9 Voting for Representatives. All votes for Representatives in Congress must **be by written or printed ballot**, or voting machine the use of which has been duly authorized by the State law; and all votes received or recorded contrary to this section shall be of **no** effect.

52 USC § 10101(e) Voting Rights. The word “**vote**” includes **all action necessary to make a vote effective** including, but not limited to, registration or other action required by State law prerequisite to voting, **CASTING** a ballot, and having such ballot **COUNTED** and **INCLUDED** in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words “**affected area**” shall mean any subdivision of the State in which the laws of the State relating to voting...

GEORGIA STATE CONSTITUTION

Art. 2, § II, Para. 1

Method of Voting. Elections by the people shall be by secret ballot and shall be conducted in accordance **with procedures provided by law**. [State Legislature, Not State Executives].

Georgia's Legislated Prescription for Constitutional Elections

TIME: The Day of Election is the day by which ballots must be both cast by voters and received by state officials. State law is preempted by the uniform federal Election Day. (affirmed by U.S. Court of Appeals for 5th Circuit 10.25.24).

PLACES: Federal Voting Areas in Georgia are Voting Precincts (2,700+), which are geographical areas established by law, from which all electors vote at one polling place (O.C.G.A. § 21-2-2(6) & (28)). Polling places are fixed rooms within voting precincts / elections districts (O.C.G.A. § 21-2-265(a)). **Voting procedures** (O.C.G.A. § 21-2-437(a) & (b)) **and requisite accounting must be conducted before any election property is moved** (O.C.G.A. § 21-2-420). [Criminal statutes prevent the moving of property prior to requisite accounting.]

MANNER OF COUNTING OF VOTES: Poll officers are the chief managers, assistant managers, and clerks required to conduct elections in any precinct in accordance with this chapter. (O.C.G.A. § 21-2-2(26) & Elections are by paper ballot. (O.C.G.A. § 21-2-437, affirmatory order in *Rhoden v. Athens-Clarke* (2020)).

GEORGIA SUPREME COURT OCTOBER 19, 2020 JUDGMENT

Rhoden v. Athens-Clarke County Board of Elections, 310 Ga. 266, 850 S.E.2d 146 (2020) :

"As the trial court rightly noted, optical scanning voting systems and electronic ballot markers are **technologies that assist** elections boards in conducting elections **via paper ballots**. In that regard they are simply an adjunct to an election conduct **with paper ballots — not a substitute for paper ballots**. Accordingly, under *Jones*, the provisions governing the use of paper ballots, including O.C.G.A. §§ 21-2-437 (d) and 21-2-438 (a), applied to this election. Ga. Code Ann. §§ 21-2-2(2.1), 21-2-2(19.1), 21-2-437, 21-2-438. Judgment affirmed. All the Justices concur, except Warren, J., not participating.

O.C.G.A. § 21-2-2 (19.1) defines "optical scanning voting system" as "a system employing **paper ballots on which electors cast votes** with a ballot marking device or electronic ballot marker after which votes are counted by ballot scanners."

O.C.G.A. § 21-2-437(a) & (b). Precincts Using Paper Ballots. Procedure as to count and return of votes generally; void ballots. [See pg. 8 of this document]

OATHS FOR PUBLIC OFFICIALS WITHIN THE STATE OF GEORGIA

Official Oath for Every Public Officer and Employee O.C.G.A. § 45-3-1

Every public officer shall (1) Take the oath of office, (5) Swear that he or she **will support the Constitution of the United States and of this state**

Oath of a Georgia County Sheriff: O.C.G.A. § 15-16-4

"Swear that I will faithfully execute all... processes directed at me as sheriff of this county ...which I can **lawfully** execute, ...and in all things well and truly without malice or partiality, perform the duties of the office of _____ County ...So help me God."

Oath of the Election Superintendent: O.C.G.A § 21-2-70

Each superintendent within his or her county or municipality ...shall include the following: (1) To make and issue such rules, regulations, and instructions, **consistent with law**...for the guidance of poll officers, ...To instruct poll officers (9) To receive from poll officers the returns ...to certify, as soon as practicable following ...results thereof to such authorities as may **be prescribed by law**;...to perform such other duties as may be **prescribed by law**; ...and in state and federal law and procedures related to elections. ...OATH (15): "I, _____, do swear (or affirm) ...that I will to the best of my ability prevent any fraud, deceit, or abuse in carrying on the same, that I will make a true and perfect return of the said election ...faithfully perform my duties **in accordance with Georgia laws** to the best of my judgment and ability."

Oath of a Poll Officer - Manager at Voting Precincts: O.C.G.A § 21-2-94

"I, _____, do swear (or affirm) that I will as manager duly... that I will not vexatiously delay or refuse to permit any person **to vote** ...I will use my best endeavors to prevent any fraud, deceit, or abuse in carrying on the same, that I will make a true and perfect return ...faithfully perform my duties therein to the best of my judgment and ability."

Oath of a Poll Officer - Clerk at Voting Precinct: O.C.G.A § 21-2-95

"I, _____, do swear (or affirm) ...that I will use my best endeavors to prevent any **fraud, deceit**, or abuse in carrying on the same, and that I will at all times truly, impartially, and faithfully perform my duties therein to the best of my judgment and ability."

CRIMINAL PENALTIES CONNECTED TO VIOLATIONS OF THESE LAWS

O.C.G.A. § § 16-10-20.1 (Filing false documents); § 45-11-1 (Offenses involving public records); § 21-2-562 (Fraudulent entries); § 21-2-604 (Criminal solicitation to commit election fraud; penalties); § 21-2-603 (Conspiracy to commit election fraud); § 16-10-20 (False statements

and writings); § 21-2-596 (Failure of public or political officer to perform duty); § 21-2-600 (Punishment for felonies under chapter); § 16-10-71 (False swearing); § 16-10-1 (Violation of oath by public officer); § 16-9-53 (Damaging, destroying, or secreting property to defraud another); § 16-2-20 (When a person is party to a crime; aiding and abetting) and § 16-2-21 (Who did not directly commit the crime). Possibly § 45-10-3 (Code of ethics for members of boards, commissions, and authorities). Possibly federal crimes pending: 18 U.S.C. § 595 (Election Interference), 18 U.S.C. § 241 (Conspiracy against rights of citizens), 18 U.S.C. § 242 (Deprivation of rights under color of law), 5 U.S.C. § 1502 (State or local officials influencing elections).

**OFFICIAL CODE OF GEORGIA, ANNOTATED (2023) O.C.G.A §21-2-437.
PRECINCTS USING PAPER BALLOTS.**

Procedure as to count and return of votes generally; void ballots

All Steps are Directly Cited from this Georgia Election Law

(a) **After the polls close** and as soon as all the ballots have been properly accounted for ... the poll officers shall open the ballot box and take therefrom **all ballots** contained therein ...

Public Viewing: All ballots, after being removed from the box, shall be kept within the unobstructed view of all persons in the voting room until replaced in the box. [Blake Evans, State Elections Director 10.6.22, *Buzz Post on Ballot Security*: “Members of the public can observe the process.”]

STEP 1: The ballots shall then be **counted one by one and a record made** of the total number.

STEP 2: Then the chief manager, together with such assistant managers and other poll officers as the chief manager may designate, under the scrutiny of one of the assistant managers and in the presence of the other poll officers, shall **read aloud the names of the candidates marked or written upon each ballot**, together with the office for which the person named is a candidate, and the answers contained on the ballots to the questions submitted, if any; and

STEP 3: The other assistant manager and clerks shall carefully **enter each vote as read and keep account of the same in ink on a sufficient number of tally papers**, all of which shall be made at the same time.

STEP 4: The poll officers shall immediately proceed **to canvass and compute the votes cast** and shall not adjourn or postpone the canvass or computation until it shall have been fully completed. [Implied: Law enforcement nor public officials may take the property.]

STEP 5: (b) When the **vote cast for the different persons named** upon the ballots and upon the questions, if any, appearing thereon, shall have been **fully recorded in the tally papers and counted, the poll officers** [Implied: ALL of them] **SHALL DULY CERTIFY** to the number of votes cast for each person and question and shall prepare in ink a sufficient number of general returns.

Preparing the General Precinct Return: The general returns shall show, in addition to the entries made thereon as aforesaid, the total number of ballots received from the superintendent, the number of ballots cast, the number of ballots declared void, the number of ballots spoiled and canceled, and any blank ballots cast, as well as the **votes cast for each candidate**. At elections, the number of votes cast for each candidate by each political party or body of which such candidate is a nominee shall be separately stated. The poll officers shall immediately proceed to canvass and compute the votes cast and shall not adjourn or postpone the canvass or computation until it shall have been fully completed.

Exception: O.C.G.A. 21-2-440 (a) Immediately after the vote has been counted in precincts in which paper ballots are used, all of **the general returns shall be signed by the poll officers** [Ministerial Mandate]. If any poll officer [of the total of all who shall sign], shall refuse to sign or certify the general returns, he or she **shall write his or her reasons therefor upon the general return sheets**.

NOTE: [Bracket words] indicate clarifying information. 100% of other text is the directly quoted State law.

AS OF OCTOBER 28, 2024, GOVERNOR KEMP AND ATTORNEYS FROM THE
DEPARTMENT OF LAW HAVE NOT REPLIED IN ANY KNOWN FORM.



THE STATE OF GEORGIA

PROPOSED EXECUTIVE ORDER

FOR THE GOVERNOR:

Statutory Provisions Governing the Required Human Count and Tally of Votes from Paper Ballots are in Force and Effect on November 5th, 2024.

Pursuant to a true, perfect, and certifiable state return, this order directly protects the voting rights of Georgia citizens. Sworn election officials act within state and county jurisdictions, while poll officers conduct elections at over 2,700 voting precincts and hundreds of advance in-person polling locations. These fixed places of election are within federal voting affected areas by O.C.G.A. 21-2-265(a) under U.S. Const. Art 1, § 4 and 52 U.S.C. § 10101(e).

Secretary of State Raffensperger has consistently informed the public on behalf of the State of Georgia that all votes are cast utilizing a “paper-ballot system.” On October 19, 2020, The Georgia Supreme Court affirmed that laws for paper ballot procedures must be applied.

Justices concurred in *Rhoden v. Athens-Clarke Brd of Elections* (Oct 2020), specifically, that O.C.G.A. § 21-2-437 “Procedures as to Count and Return of Votes Generally” is in full force and effect. This means that poll officers must hand count (human count) our paper ballots and votes by traditional ink-tally methods from Georgia Code of 1863, § 1234. The judgment states:

“...Optical scanning voting systems and electronic ballot markers are technologies that assist elections boards in conducting elections via paper ballots. In that regard, they are simply an adjunct to an election conducted with paper ballots —not a substitute for paper ballots.” Ga Code Ann. 21-2-2(2.1), 21-2-2(19.1), 21-2-437, 21-2-438.

ORDERED: That, to ensure uniformity of law and a ministerial mandate, all sworn poll officers will duly certify their general return at their respective voting location based on human count of the cast votes and ink-tallies per O.C.G.A. § 21-2-437(a)(b).

That election superintendents ensure that this mandate be conducted at fixed voting precincts and advance in-person polling locations to include 100% of our paper ballots cast by any means. That polls officers duly certify before transferring voted paper ballot property to the county superintendent. That election superintendents use **codified paper ballot procedures** as the basis for county-level certification and not that for voting machines.

(3 U.S.C. § 1, O.C.G.A. §§§§ 21-2-420, 21-2-493, 21-2-499, 21-2-501, and 21-2-502).

This Order shall be effective upon signature.

This 24th Day of October 2024.

Drafted for the GOVERNOR