
From: Jennifer Dorminey Herzog <jherzog@hallboothsmith.com>

Date: Thursday, April 7, 2022 at 4:50 PM

To: Marilyn Marks <Marilyn@USCGG.org>

Cc: "Rachel.Roberts@coffeecounty-ga.gov" <Rachel.Roberts@coffeecounty-ga.gov>, "Anthony A. Rowell" <ARowell@hallboothsmith.com>, "Vickers, Wesley" <Wesley.Vickers@coffeecounty-ga.gov>, "Tracie.Vickers@coffeecounty-ga.gov" <Tracie.Vickers@coffeecounty-ga.gov>

Subject: Coffee County 4.7.22 Response to Marks' various Open Records Requests

Marilyn,

I appreciate your professionalism and the opportunity to have discussed your goals during our recent phone conference and believe it has been helpful to me in understanding the specific records you are seeking. I apologize for the misunderstanding - when I requested that we keep the requests "separate," I simply meant that it would be helpful to have all follow up responses on a specific open records request in the same email chain (so that then when it is reviewed by ourselves or anyone else later they can easily track what request was or was not responded to, what was narrowed, etc.). I have done my best to go back and track what requests you have clarified and/or narrowed from your 3.4.22, 3.18.22, 3.25.22 and 4.6.22 ORRs, and also what additional requests have come in this week that have not yet been responded to yet to date (some of which are related to the previous requests). Below is your "clarification email" and attached are any additional requests that I believe have not yet been responded to, to date. If I have missed any, it is simply the result of the large number that have been received, and it was not my intention to do so, so please do let me know so that we can be sure to have a full and thorough response on behalf of Coffee County. Thank you for accommodating my schedule and granting the extension until today to respond for the most recent requests. As we discussed on the phone, what would be most helpful to me and I believe would result in the most accurate and cost-effective response for you is if you streamline and narrow these requests into one current document so that I may understand the specific records you are seeking and search for and produce those to you.

As you are aware, Members of the Board of Elections and Registration of Coffee County did not for the dates requested have county assigned email addresses. Personal emails, text messages, and/or social media communications responsive to your request may or may not be located on individual board members or Ms. Hampton's private accounts. However, certain board members have joined and/or left the board since the time period requested. We have in fact requested that all current board members produce responsive documents for the time period requested. With the assistance of Coffee County's records custodian, I am in the process now of gathering any responsive records from the board members and current elections staff and expect we will be able to produce to you at the latest on or before next Tuesday April 12, 2022 (dependent upon my schedule, hopefully earlier). These records will be produced at no cost to you. However, if you desire to obtain a subpoena and/or actually have IT search the individuals board members' records, then it will have the cost associated with the initial estimate given to you. For former employees (such as Hampton and Ridlehoover), Coffee County has no contact or control over them and therefore no documents responsive in its possession, and any records from their personal communication devices would need to be sought directly from those persons through another avenue such as a court subpoena. I

was not aware of county laptops used by Ms. Hampton and Ms. Ridlehoover, but now that I am, will also specifically confirm that those have been searched and included in the responsive records.

As noted previously with an accompanying explanation of the circumstances, it is current staff's understanding and belief the server containing the ballot images requested for both the November 2020 election and January 2021 runoff election is in the in the Secretary of State's possession, therefore the County has no documents in its possession responsive to this request at this time. As previously relayed to you, you may choose to seek those records directly from the Secretary of State's office and Coffee County has no objection to the production of these ballot images to you. Further, Coffee County has already made a request to the Secretary of State to obtain same. If they come into Coffee County's possession, we will promptly produce them to you.

Lastly, as you have been previously notified, IT support has confirmed that the former Election Supervisor Misty Hampton's email account is no longer accessible. I have personally asked IT to again re-double their efforts to be absolutely sure this is the case and hope to have a response by next week in this regard. Further, although Georgia's Open Records Act only requires the production of not otherwise privileged documents, and does not require the answers of interrogatories or questions, in good faith to show you there was no sinister intent, I provide the following explanation for the circumstances that caused the email records of former employees Hampton and Ridlehoover to be unavailable: Coffee County has a limited number of licenses under Microsoft 365, and it was the regular practice of IT to replace the new employee of each position with that license when a former employee was removed, and when that is done, unless previously archived the former employees' emails are no longer accessible. In this situation, the County did attempt to preserve Hampton's emails, but IT unfortunately was unsuccessful in same. I believe there are certain records that will be produced to you to confirm this course of events. The County is now in the process of obtaining an archiving system, although I recognize that does nothing to assist you in your goals, but I did want to make you aware of the steps being taken.

I am still combing through your attached requests and receiving records responsive to same, but did want to confirm the receipt of these requests and that I and others in Coffee County are actively working to collect and produce to you the responsive records. We expect to have the available records to you at the latest on or before next Tuesday April 12, 2022 (hopefully earlier). We are agreeable to providing these in an electronic format as you have requested. Yes, OCGA §50-28-72(40) was the intended citation. However, once I obtain and review all the responsive records provided, there may or may not be other applicable exemptions that apply, and I will supply those to you at that time.

I would again like to reiterate my request for you to streamline and narrow your requests to one comprehensive document so that I may be sure we are working off of the most current/narrowed requests with the goal of producing all public records in the county's possession, not otherwise privileged, which you desire to obtain. Thank you,

Jennifer

From: Marilyn Marks <Marilyn@USCGG.org>

Sent: Tuesday, April 5, 2022 10:53 PM

To: Jennifer Dorminey Herzog <jherzog@hallboothsmith.com>

Cc: Vickers, Tracie <Tracie.Vickers@coffeecounty-ga.gov>; Rachel Roberts <Rachel.Roberts@coffeecounty-ga.gov>

Subject: Follow up and clarification of 3.7.22 ORR and 4.6.22 ORR

Jennifer,

I'm hopeful that this email will clarify, and not unnecessarily confuse the status of the several Open Records Requests you are processing for CGG and me. Please contact me if more clarification is needed.

1. The 4.5.22 request attached is somewhat more specific than the requests #1 and #3 below in the March 7, 2022 request that certainly encompass the request today. It has now been a month without any substantive response concerning the board members' communications or Misty Hampton's communications with the board. As you know, I objected to giving the board members the *option* to produce their records about election related topics and meetings. The records are official public records, of course, and must be provided.

Has this search of the board members' records begun? If not, what is required to begin the search? As I noted, we do not object to paying a small fee for the production of records, but the requestor should not be charged for extraordinary efforts to obtain records that should be readily producible by the board members with a few minutes effort. We have made a narrow request in terms of the time of communications we requested. Please confirm that you have requested that all board members produce their responsive communications, and that they were informed that the production is not optional, but required, as members of the public body. Please let us know when the documents will be available. If there is to be a reasonable charge imposed that would be equivalent to a charge if the records were retained as required, please let me know what it is. If partial records have been retrieved since the March 7 Open Records Request was issued, please forward them immediately. We request that the records be produced in electronic format.

If you withhold any records, please describe the record and provide the citation of the legal authority on which you rely to withhold the record.

2. Please confirm that you have demanded that Misty Hampton and Jil Ridlehoover produce records that either of them has on personal devices that are responsive to item #1 below (3/7/22 request), some of which may relate to the meeting described on the attached 4/5/22 open record request.

3. As you know from our previous communications, with respect to your reference in #1 below to obtaining records via subpoena from unwilling board members, it is the County Election Board's duty to produce responsive records controlled by its officials. Please confirm that the county is taking all steps necessary, including involving the appropriate court, if required, to obtain the responsive records promptly. It is not the requestor's responsibility to force individual officials to comply with their duties to the County.

4. With respect to responsive records withheld under §50-28-72(40) and (41) listed below, please confirm that the citation of 50-28-72(40) is the intended citation. Also with respect to records withheld under 50-28-72(41), please provide a privilege log.

5. Please confirm the laptops used by Ms. Hampton and Ms. Ridlehoover have been searched for responsive emails or other communications.

All of these open records requests are submitted jointly by Coalition for Good Governance and me as an individual.

Thank you for your responsiveness and attention to these request. Please contact me if you have questions.

Marilyn Marks (on behalf of Coalition for Good Governance and as an individual)

Executive Director

Coalition for Good Governance

Cell: 970 404 2225

Marilyn@USCGG.org

Follow me [@MarilynRMarks1](#)

From: Marilyn Marks <Marilyn@USCGG.org>

Date: Monday, April 4, 2022 at 2:19 PM

To: Jennifer Dorminey Herzog <jherzog@hallboothsmith.com>, "Vickers, Tracie"

<Tracie.Vickers@coffeecounty-ga.gov>, Rachel Roberts <Rachel.Roberts@coffeecounty-ga.gov>

Subject: Follow up on 3.7.22 Open Records Request item #1 (4.4.B) FW: Response to Coalition for Good Governance's 3/7/2022 Open Records Request to Coffee County

Jennifer,

I am writing to follow up on Item #1 below. You have asked that I keep each request separate in our communications.

Please advise when the requested correspondence will be available. As you know, I have previously objected to your position that the production of election-related communications is optional by election officials. Also, retrieval of those official records should require only a minimal charge if that for production, not extra costs for the county to search personal devices. Otherwise there would be incentive for officials to make communications difficult to access.

Please advise when the records will be produced. They are considerably overdue now.

Further we want to understand the circumstances that caused the official election records contained in email records for Ms. Hampton and her staff to be unavailable. I am happy for you to call to explain if that is easier, or prepare an email. Otherwise, I will seek the information through a series of document requests. As you know, such records are required to be retained by the county under the State's record retention schedules and election record preservation requirements in some cases.

Thank you for your help on this. I am happy to talk by phone if that would be helpful.

Marilyn Marks (request made in my individual capacity and on behalf of Coalition for Good Governance)

Executive Director

Coalition for Good Governance

Cell: [REDACTED]

Marilyn@USCGG.org

Follow me [@MarilynRMarks1](https://twitter.com/MarilynRMarks1)