

# State Election Board



December 20, 2023 – Atlanta, GA

## Proposed Memory Card Retention Rule Change

Garland Favorito



A non-partisan, non-profit Georgia Election Integrity leader for 16 years

# Dominion Memory Card Creation



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## In Person Voting

## Mail-in Voting

Absentee  
Ballot

Selection  
Summary

Low Speed

High Speed

Network Connect

Memory cards contain in-person ballot images, cast vote records and audit logs

These election records are created automatically when ballots are scanned in order to tabulate votes

# Election Record Retention Law



Memory cards contain the most important election records other than the physical ballots because they can be used to reproduce the election results

## ❖ Federal law: **22 Months** - [USC 52 20701](#)

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

## ❖ State law: **24 Months** - [O.C.G.A. 21-2-73](#)

*“All primary and election documents on file in the office of the election superintendent of each county, municipal governing authority, superintendent, registrar, committee of a political party or body, or other officer shall be preserved therein for a period of at least 24 months and then the same may be destroyed unless otherwise provided by law.”*

# SEB Storage of Return Rule (for memory cards)



## Current SEB Rule 183-1-12-.13:

*"...the election superintendent may use the memory cards for programming ballot scanner units for the next primary, election or runoff."*

*A runoff can be only 60 days later*

## Proposed SEB Rule 183-1-12-.13:

*"...the election superintendent shall retain the memory cards for a period of 24 months in accordance with Georgia law."*

*Minor Additional Changes*



SB202 made ballot images public record in 2021 but that is irrelevant because election records have always had a two year retention period

Memory cards only cost about \$10 each depending on storage capacity and can be purchased as Commercial Off the Shelf products from 3<sup>rd</sup> parties

By contrast our voting system cost:

- ❖ \$107+ million initial purchase
- ❖ \$10+ million total per year burden on counties for:
  - Maintenance, testing, certification, licensing, storage, logistics
- ❖ \$35 million in taxpayer funded interest
- ❖ Committed without required fiscal notes for purchase or ongoing expenses
- ❖ Financed by a 20 year bond for a system with a 10 year shelf life

# SOS Office Approved Violation of Federal & State Law



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## Email from State Election Director approving destruction of ballot image data from the Nov. 3<sup>rd</sup>, 2020, Election

**[Redacted]**

**From:** Chris Harvey <wchrisharvey@gmail.com>  
**Sent:** Wednesday, December 2, 2020 1:12 PM  
**To:** [Redacted]  
**Subject:** Re: memory cards

Yes, go ahead and reuse the memory cards.

On Tue, Dec 1, 2020 at 09:59 [Redacted] <[Redacted]@murraycountygga.gov> wrote:

Hello Chris: We really need to know if it is ok to clean the memory cards we used in the scanners in the General Election or do they need to stay loaded for some legal reason. It is time to start L&A and Dominion sent no extra cards with the equipment,



*"Yes, go ahead  
and reuse the  
memory cards."*

*- Chris Harvey*

Dec. 2, 2020

# SOS Office Approved Violation of Federal & State Law



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## Email from Asst. State Election Director approving destruction of ballot image data from the Nov. 3<sup>rd</sup>, 2020, Election

-----Original Message-----

From: Barnes, Michael <[mbarnes@sos.ga.gov](mailto:mbarnes@sos.ga.gov)>

Sent: Wednesday, July 1, 2020 4:28 PM

To: Watson, Jeanetta <[JWatson@maconbibb.us](mailto:JWatson@maconbibb.us)>

Cc: Hill, Brian <[bhill@sos.ga.gov](mailto:bhill@sos.ga.gov)>

Subject: Re: Tabulator Compact Flash Cards

[WARNING - EXTERNAL EMAIL] This email originated from outside Macon-Bibb County Gov or open attachments from this email unless you know the sender and trust the content. If phishing attempt, please forward this email to [SOC@maconbibb.us](mailto:SOC@maconbibb.us)<<mailto:SOC@maconbibb.us>>

You can clear the CF cards when you are ready.

Sent from my iPhone

Michael Barnes

470-316-2884

*"You can clear  
the CF cards  
when you are  
ready."*

*- Michael Barnes  
July 1, 2020*



# Ballot Image Analysis ORR Survey Results



**70 Georgia Counties** cannot produce all Original Ballot Images for the November 2020 election

Of those, **36 Counties** are missing **100%** of their Original Ballot Images

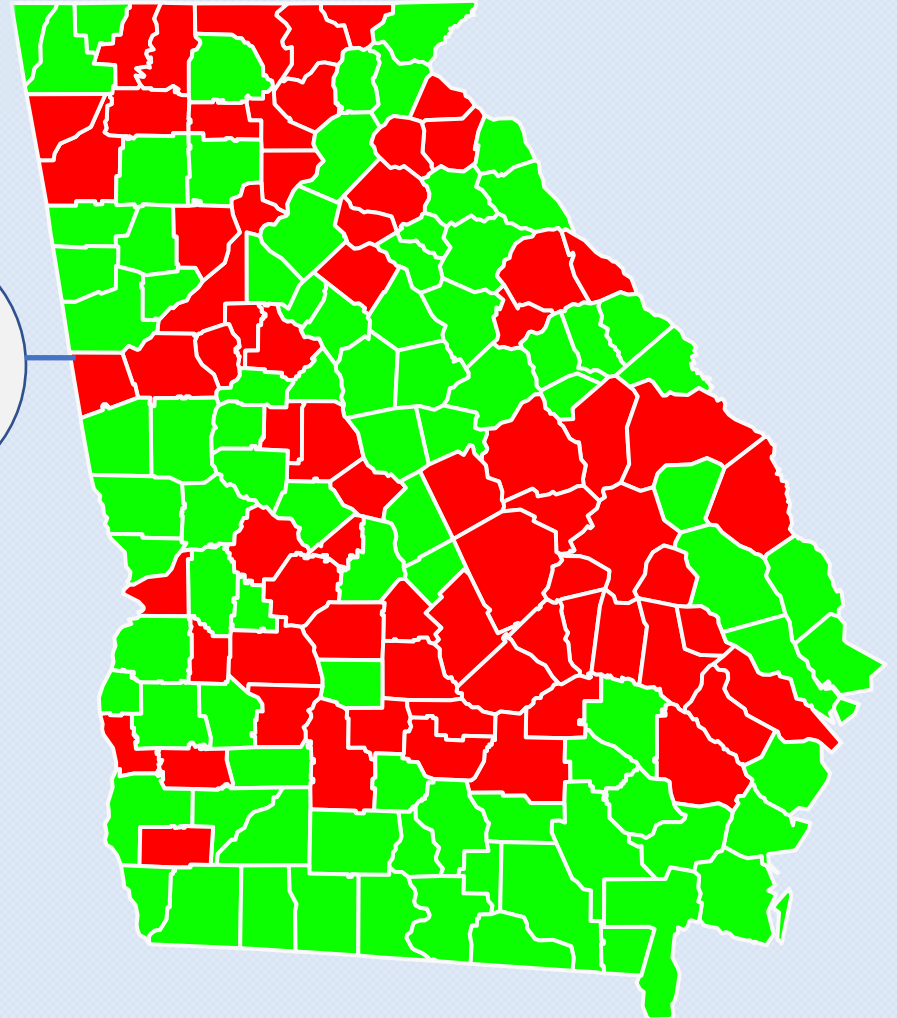
**Total Missing:**  
**1,726,651 Million Original Ballot Images**

for the November 2020 Election, denied to Voter GA

**5,026,684** Total cast ballots from Secretary of State

**3,300,033** Original Ballot Images received by Voter GA

**34%  
Missing**



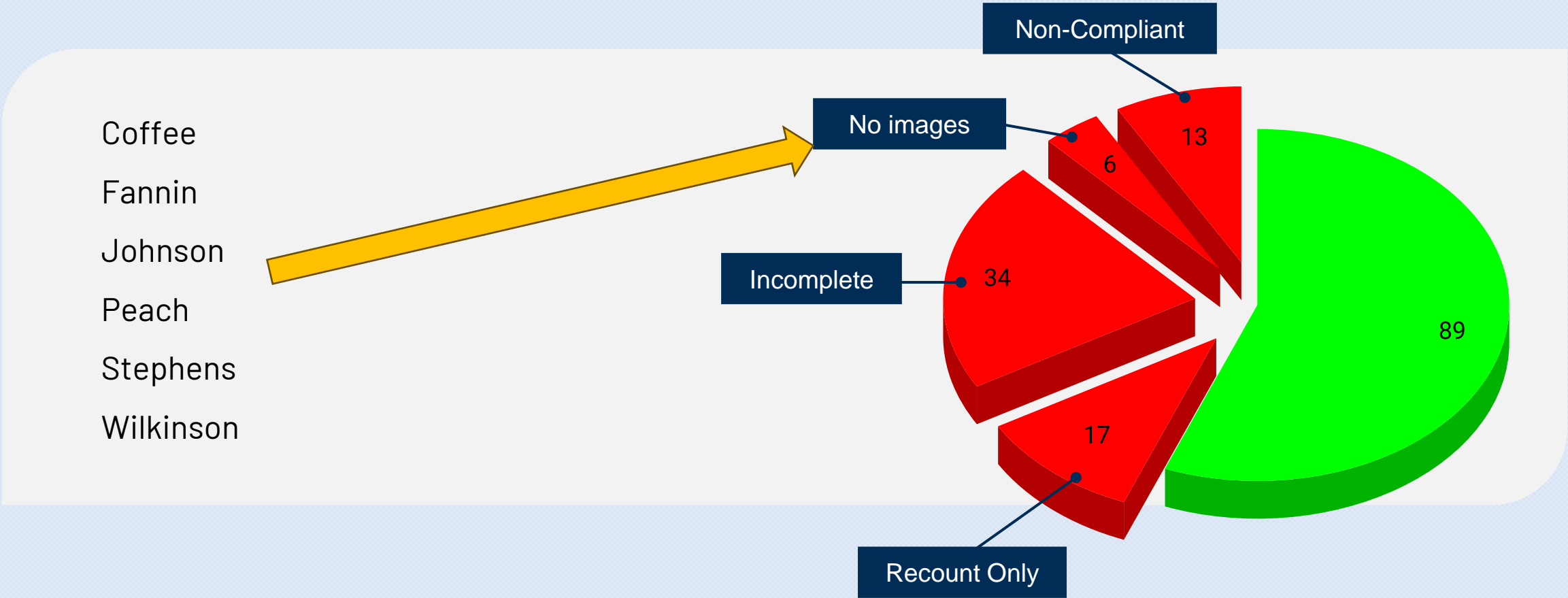


# 6 Counties Had No Recount or Original Images



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Failure to retain Ballot Images that were automatically created by the voting system for tabulation



# 17 Counties Only Have Recount Images

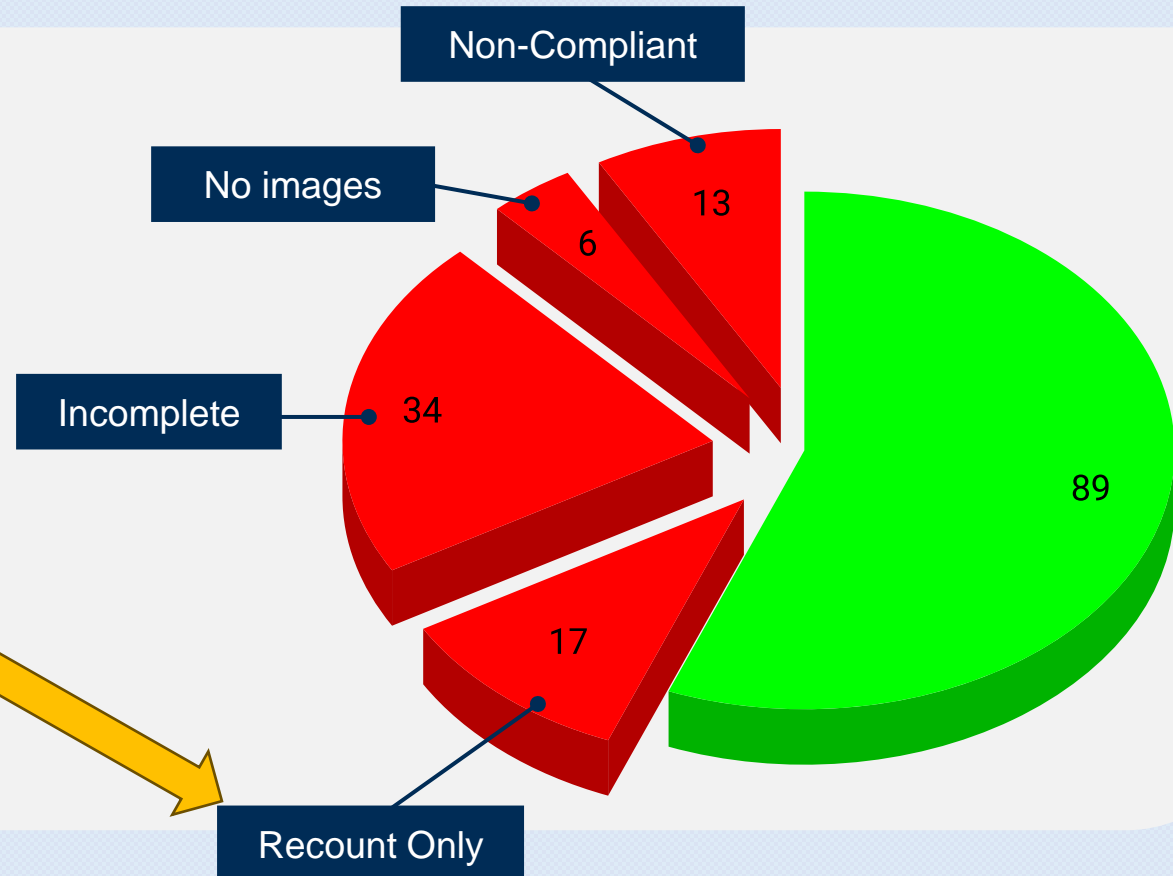
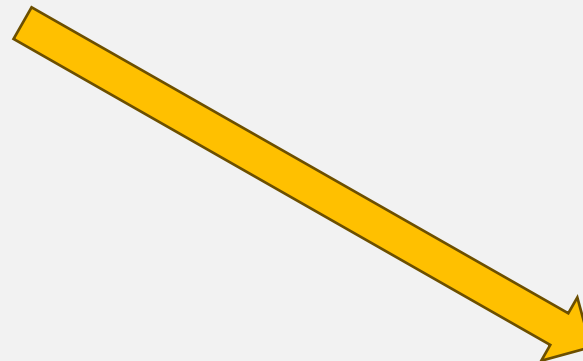


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1. No original time stamp for audit purposes
2. No original meta data to show how ballot selections were interpreted
3. Images could have been replaced by tampering between scans

Banks  
Barrow  
Burke  
Cobb  
Coweta  
Dooly  
Forsyth  
Heard  
Jackson

Monroe  
Murray  
Pickens  
Telfair  
Turner  
Walton  
Wilcox  
Worth



# 34 Counties Incomplete (missing thousands)



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Mail in only, in person only, or partial mixture

Ben Hill  
Bibb  
Calhoun  
Candler  
Chattahoochee  
Chattooga  
Dawson  
Emanuel  
Evans  
Fayette  
Floyd  
Fulton  
Gordon  
Henry  
Irwin  
Jefferson  
Lamar

Laurens  
Lee  
Liberty  
Lincoln  
Lumpkin  
Macon  
Miller  
Montgomery  
Pulaski  
Tattnall  
Toombs  
Towns  
Union  
Washington  
Wayne  
Wheeler  
Whitfield

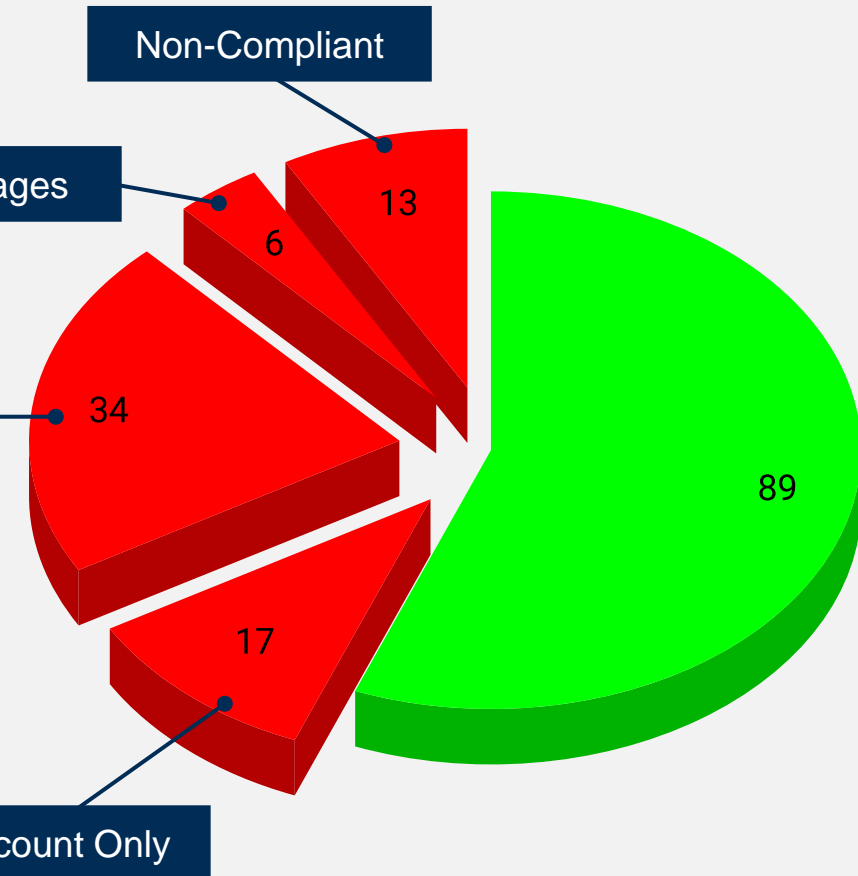


Incomplete

No images

Non-Compliant

Recount Only



# 13 Counties Did Not Comply with ORR's



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Volunteers Made Repeated attempts to contact

## 3 No Response

Dodge  
Franklin  
Truetlen

## 4 Excessive Cost

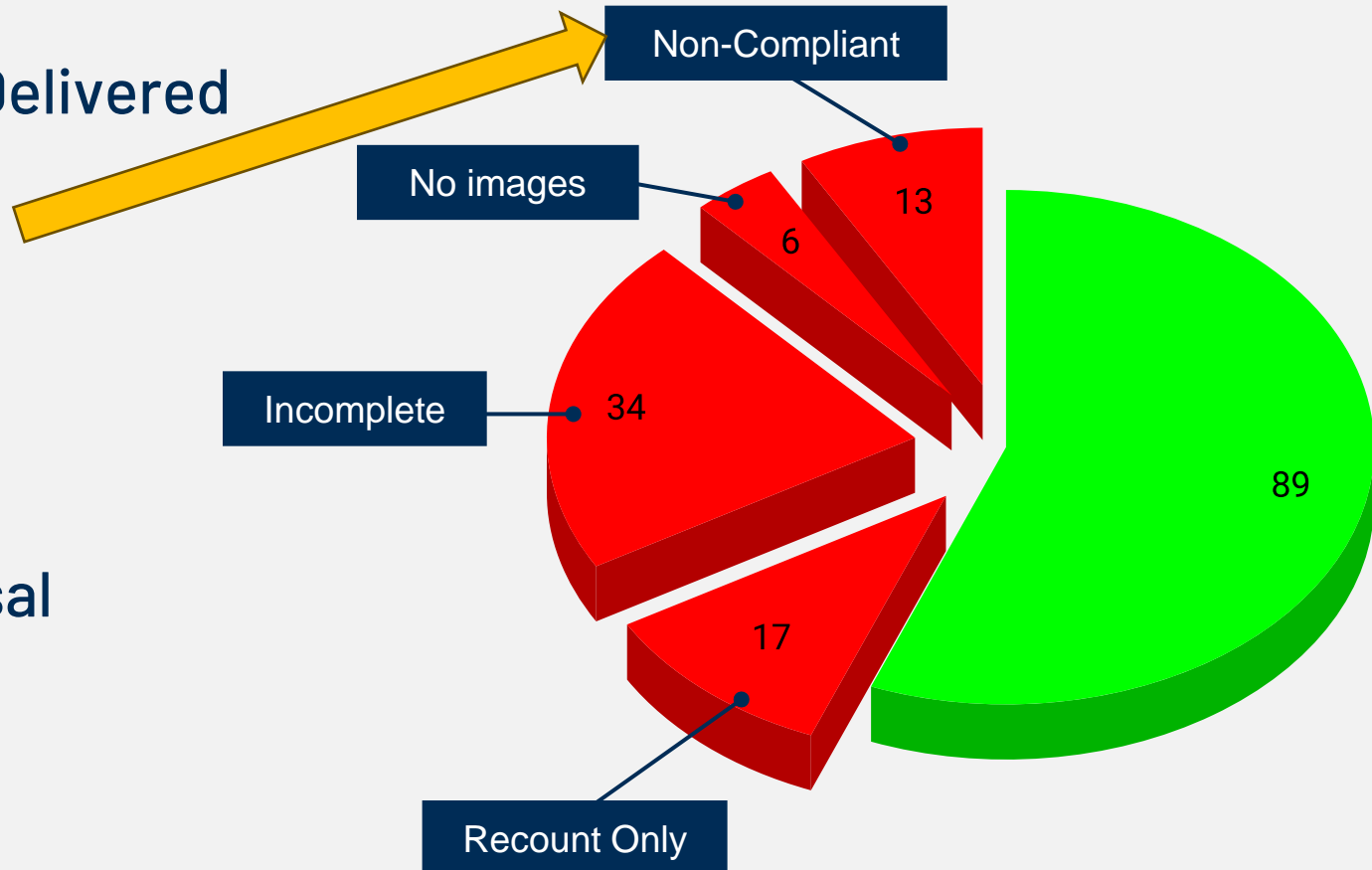
Clayton  
Jeff Davis  
Sumter  
Taliaferro

## 5 Not Delivered

Clay  
Screven  
Taylor  
Webster  
Wilkes

## 1 Refusal

Long



# Requested Relief



Make SEB Rule 183-1-12-.13 conform to federal and state law by implementing proposed rule change to retain memory cards for 2 years

Issue a letter of instruction to Michael Barnes to prevent any further inappropriate advice to counties advocating destruction of election records

Issue SEB request to Superior Court judges in counties that could not produce memory card content asking courts to release corresponding ballots that are no longer under two year seal if they have not been destroyed