



KATIE HOBBS
SECRETARY OF STATE

March 3, 2021

VIA EMAIL ONLY

Senate President Karen Fann
Senator Warren Petersen
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President Fann and Senator Petersen,

I write to express my ongoing concern about the legislative subpoenas issued to the Maricopa County Board of Supervisors for the production of election equipment and ballots from the 2020 General Election and the unspecified audits you intend to conduct. As you know, there is no credible evidence for any of the conspiracy theories that have abounded about the 2020 General Election, including those made by associates of Allied Systems Operations Group. Indeed, officials in Maricopa County, in particular, have gone above and beyond what is required by law to demonstrate the security and accuracy of the election they conducted. I again urge you not to waste taxpayer resources chasing false claims of fraud that will only further erode public confidence in our election processes and elected officials.

In any case, in light of Judge Thomason's recent ruling clearing the way for you to receive Maricopa County's ballots and election equipment, I implore you to treat your responsibility for the custody, security, and integrity of those items with the same level of vigilance that election officials across this State treat that responsibility. Indeed, Judge Thomason's ruling makes clear that you are obligated to maintain the security and confidentiality of the materials turned over to you. If your goal is truly to rebuild public confidence in our democracy, it is imperative that you establish and abide by clear procedures and parameters for the security and confidentiality of the

ballots and election equipment while in your custody and ensure independence and transparency should you proceed with any further audit.

At minimum, before you assume custody of Maricopa County's ballots and election equipment, I urge you to:

- Develop and implement procedures to ensure a secure and documented chain of custody for the ballots and election equipment, including retention of thorough logs and sign-in sheets for persons accessing ballots and election equipment;¹
- Develop and implement procedures to ensure the physical security of the ballots² and physical, data, and cyber security of election equipment,³ so that they are not tampered with, stolen, or otherwise mishandled or compromised;
- Develop and implement procedures to ensure markings on ballots are not altered or added while in your custody, including, for example, restricting writing instruments to only red pens in the room where ballots are handled, inspected, or counted;
- Ensure that the handling, inspection, and counting of ballots is performed by bipartisan teams including at least two members of different political parties⁴ and only conducted under camera with a live video feed and that the video footage is retained for 24 months;⁵
- Develop and implement procedures to ensure that election equipment is not connected to the internet, that write blocker devices are used when connecting any media to election equipment, that any memory stick or device used to transfer data to or from election equipment are from reputable sources and are only used once and then disposed of, that no extraneous or malicious hardware or software are installed or connected to the election equipment; and that any third-party access to the source code for the election equipment is approved and observed by the system vendor;
- Develop and make available to election officials and the public the procedures and criteria, including as to qualifications and independence, you will use to select the firms and/or individuals who will be charged with conducting any further audits or otherwise handling the ballots and election equipment;

¹ See Elections Procedures Manual ch. 8, § V(E); ch. 4, § III; and statutory provisions cited therein.

² See Elections Procedures Manual ch. 8, § VI and statutory provisions cited therein.

³ See Elections Procedures Manual ch. 4, § III and statutory provisions cited therein.

⁴ See Elections Procedures Manual ch. 10 and statutory provisions cited therein.

⁵ See Elections Procedures Manual ch. 10, § I(B) and statutory provisions cited therein. The video footage should be retained for 24 months.

- Make available to election officials and the public the standards and procedures that will be followed in conducting any audit, as well as the objectives of the audit and ultimate results and supporting documentation;
- Permit the Secretary of State's Office, the Governor's Office, the Attorney General's Office, Maricopa County officials, and political party designees to observe every step of any audit and any handling, inspection, or counting of ballots; and
- Provide for the greatest practicable level of public observation of any audit process and any handling, inspection, or counting of ballots, just as Arizona's election officials are required to permit observation of logic and accuracy testing of election equipment before and after the election, polling places, ballot processing, ballot tabulation, and post-election audits.⁶

You have stated previously that you believe a further audit by the Senate is critical for the people of Arizona to be able to move forward and trust the 2020 General Election results. I respectfully disagree. But I believe we can agree that proceeding without clear procedures for the security of the ballots and election equipment when they are in your custody, and clear procedures to ensure the integrity, independence, and transparency of the audit itself and the auditors selected, will only open the door to more conspiracy theories and further erosion of voters' confidence in Arizona's elections processes.

If the Senate chooses to proceed with an audit of the Maricopa County ballots, I urge you to seriously consider conducting a risk-limiting audit with the assistance of reputable, nonpartisan national experts. The attached white paper, *Risk-Limiting Audits in Arizona*, by Elizabeth Howard, Paul Rosenzweig, and Turquoise Baker⁷ contains more information about risk-limiting audits and how they can be implemented in Arizona to increase confidence in the accuracy of our election results. My Office has been in communication with post-election audit experts at the nonpartisan organizations Voting Works (<https://voting.works>) and the Brennan Center (<https://www.brennancenter.org>), who stand ready to travel to Arizona to assist the Senate in conducting a secure, transparent, and statistically-sound risk-limiting audit of the 2020 General Election in Maricopa County. My Office would be happy to assist in coordinating that effort or connect you directly to our points of contact at those organizations as well as other experts in post-election audits.

⁶ See Elections Procedures Manual ch. 8, § III; ch. 4, § II(C); and statutory provisions cited therein.

⁷ Available at <https://www.brennancenter.org/our-work/research-reports/risk-limiting-audits-arizona> (last visited March 3, 2021).

Thank you for your attention to this important matter, and I hope to hear from you.

Sincerely,

A handwritten signature in black ink, appearing to be 'KH' followed by a long horizontal flourish.

Katie Hobbs
Arizona Secretary of State

cc:

Senate Minority Leader Rebecca Rios: rrios@azleg.gov

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Maricopa County Board of Supervisors:

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