KAREN FANN
SENATE PRESIDENT
FIFTY-FIFTH LEGISLATURE
1700 WEST WASHINGTON, SENATE
PHOENIX, ARIZONA 85007-2844
PHONE: (602) 926-5874
TOLL FREE: 1-800-352-8404
kfann@azleg.gov
DISTRICT 1

COMMITTEES:
Rules, Chairman

Arizona State Senate

May 12, 2021

Maricopa Board of Supervisors
c/o Chairman Jack Sellers
301 West Jefferson Street, #10
Phoenix, Arizona 85003

Dear Chairman Sellers:

I am writing to seek your assistance and cooperation in the resolution of three (3) serious issues that have arisen in the course of the Senate's ongoing audit of the returns of the November 3, 2020 general election in Maricopa County.

I. Ongoing Non-Compliance with the Legislative Subpoenas

The first issue concerns Maricopa County's apparent intent to renege on its previous commitment to comply fully with the legislative subpoenas issued on January 13, 2021, which, as you know, Judge Thomason found were valid and enforceable.

To date, attorneys for Maricopa County have refused to produce virtual images of routers used in connection with the general election, relying on a conclusory and unsupported assertion that providing the routers would somehow "endanger the lives of law enforcement officers, their operations, or the protected health information and personal data of Maricopa County's citizens." If true, the fact that Maricopa County stores on its routers substantial quantities of citizens' and employees' highly sensitive personal information is an alarming indictment of the County's lax data security practices, rather than of the legislative subpoenas. Similarly, the County's assertion that producing the internet routers for inspection would cost up to $6,000,000 seems at odds with Deputy County Attorney Joseph La Rue's prior representation to Audit Liaison Ken Bennett that the routers already had been disconnected from the County's network and were prepared for imminent delivery to the Senate.

Nevertheless, in an effort to resolve the dispute regarding production of the routers, we propose that agents of CyFIR, an experienced digital forensics firm and subcontractor of Cyber Ninjas, review virtual images of the relevant routers in Maricopa County facilities and in the presence of representatives of the Maricopa County Sheriff's Office. Such an arrangement would permit Maricopa County to retain custody and monitor the review of router data, while ensuring that the Senate may access the information it requires—and to which it is constitutionally entitled—to successfully complete its audit. The Senate has no interest in viewing or taking possession of any information that is unrelated to the administration of the 2020 general election.

Separately, Maricopa County has refused to provide the passwords necessary to access vote tabulation devices. Its attorneys' insistence that the County does not have custody or control of this information is belied by the County's conduct of its own audits, which, if they were as comprehensive as they purported to be, almost certainly would have entailed use of the passwords to examine the tabulation devices, and it strains credulity to posit that the County has no contractual right to obtain (*i.e.*, control of) password information from Dominion.

II. Chain of Custody and Ballot Organization Anomalies

As the audit has progressed, the Senate's contractors have become aware of apparent omissions, inconsistencies, and anomalies relating to Maricopa County's handling, organization, and storage of ballots. We hope you can assist us in understanding these issues, including specifically the following:

1. The County has not provided any chain-of-custody documentation for the ballots. Does such documentation exist, and if so, will it be produced?
2. The bags in which the ballots were stored are not sealed, although the audit team has found at the bottom of many boxes cut seals of the type that would have sealed a ballot bag. Why were these seals placed at the bottom of the boxes?
3. Batches within a box are frequently separated by only a divider without any indication of the corresponding batch numbers. In some cases, the batch dividers are missing altogether. This lack of organization has significantly complicated and delayed the audit team's ballot processing efforts. What are the County's procedures for sorting, organizing, and packaging ballot batches?
4. Most of the ballot boxes were sealed merely with regular tape and not secured by any kind of tamper-evident seal. Is that the County's customary practice for storing ballots?
5. The audit team has encountered a significant number of instances in which there is a disparity between the actual number of ballots contained in a batch and the total denoted on the pink report slip accompanying the batch. In most of these instances, the total on the pink report slip is greater than the number of ballots in the batch, although there are a few instances in which the total is lower. What are the reasons for these discrepancies? For your reference, please see several illustrative (*i.e.*, not comprehensive) examples in the table below:

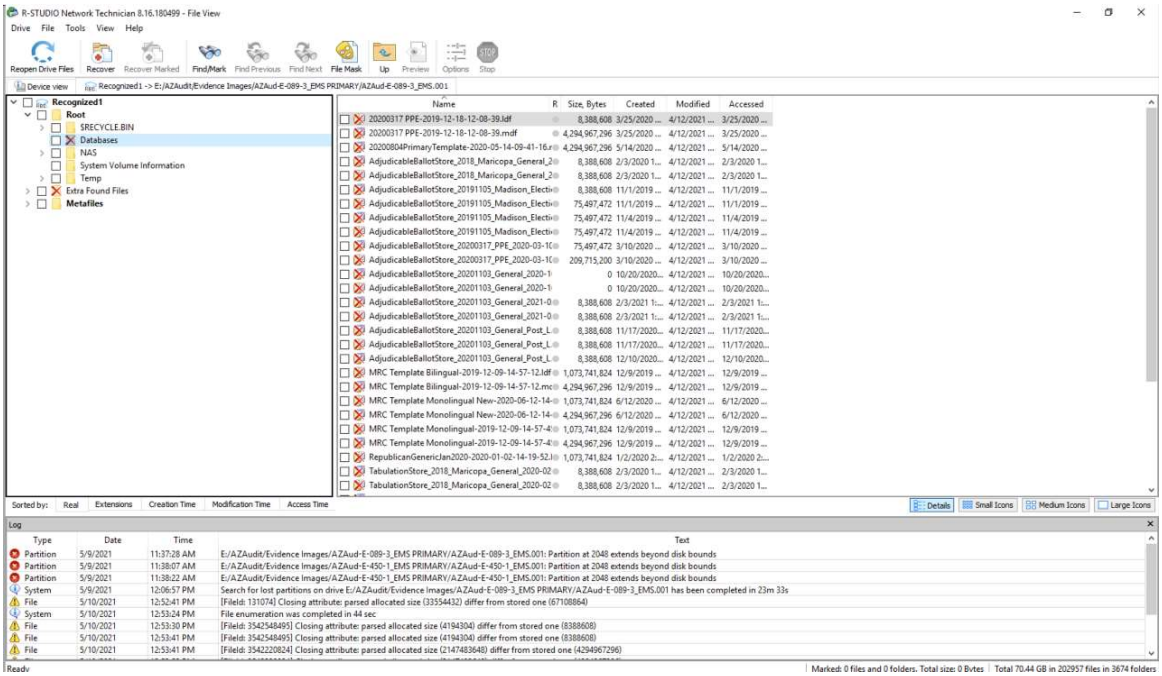
Pallet	Ballot Type	Batch	Pink Slip Total	Actual Total	Discrepancy
5	EV	2104	200	198	-2
5	EV	9276	200	165	-35
15	EV	9278	200	187	-13
15	EV	1643	200	218	18
7	EV	6359	197	187	-10

For your convenience, images of the corresponding pink report slips are attached in **Exhibit A**.

III. Deleted Databases

We have recently discovered that the entire "Database" directory from the D drive of the machine "EMSPrimary" has been deleted. This removes election related details that appear to have been covered by the subpoena. In addition, the main database for the Election Management System (EMS) Software, "Results Tally and Reporting," is not located anywhere on the EMSPrimary machine, even though all of the EMS Clients reference that machine as the location of the database. This suggests that the main database for all election related data for the November 2020 General Election has been removed. Can you please advise as to why these folders were deleted, and whether there are any backups that may contain the deleted folders?

The image below shows the location of the files known to be deleted. In addition, the main database for "Results Tally and Reporting" is not present.



* * *

I am hopeful that we can constructively resolve these issues and questions without recourse to additional subpoenas or other compulsory process. To that end, I invite you and any other officers or employees of Maricopa County (to include officials in the Elections Department) who possess knowledge or information concerning the matters set forth above to a meeting at the Arizona State Capitol on **Tuesday, May 18, 2021 at 1:00 p.m.** in Hearing Room 109. Chairman Petersen, former Secretary Bennett and I will attend the meeting, which will be live-streamed to the public.

Please let me know at your earliest convenience whether you accept my invitation and, if so, which Maricopa County personnel will attend.

Thank you for your cooperation on these important issues of public concern.

Respectfully,

Senator Karen Fann

Karen Fann, President
Arizona State Senate

Exhibit A

EARLY VOTING REPORT

Board #	Today's Date	Boardworker #1	Boardworker #2	# BIN
38	10-20-20	M. Faccone	J. Cunningham	161

Election Type:	Election Date	Election #	Tray #
☐ PRIMARY ☒ GENERAL ☐ SPECIAL ☐ JURISDICTION	11-3-20	1377	Z104

Write Name for Special or Jurisdiction

		SEQ:	1-50	51-100	101-150	151-200	Combined Totals (A-D)
		Column:	A	B	C	D	
1		Total # of AFFIDAVITS	50	50	50	50	200
2	Ballots	Total REJECTED	0	0	0	0	0
3	Ballots	Total to DUPLICATION	0	0	0	0	0
4	Ballots	Total to TABULATION	50	50	50	50	200

Why would I duplicate a ballot?

E. ***Damaged Ballot:***
Torn or cut, sticky, timing marks not visible, spill that results in a stain overlapping timing marks, tape, etc.

F. ***Erroneous Ballot:***
Alternate Format (e.g., Braille, Lg. Print), Precinct and/or Ballot Color **DOES NOT** match affidavit information. If party on affidavit does not match party on ballot, ask for assistant.

DUPLICATION *(Enter Total # of ballots to be DUPLICATED on line 3 above)*

Column	PER AFFIDAVIT ENVELOPE			☑ Reason Below	
	PRECINCT/DIST	COLOR	PARTY	E	F

Why would I reject something?

G. ***Multiple Ballots:***
Ask for assistance if affidavit contains multiple ballots.

H. ***Insufficient:***
Affidavit contained no ballot or ballot is not from current election.

REJECTED *(Enter Total # of ballots from "H" to be REJECTED on line 2 above)*

Column	ID NUMBER	☑ Reason Below	
		G	H

White – *Place on Ballots in Tray* **Yellow** - *Paperclip to Tray Report* **Pink** – *Rubber band with Affidavits*

EARLY VOTING REPORT	Board #	Today's Date	Boardworker #1	Boardworker #2	BIN #
	13	11-06-20	S.Jouflas	E.Gruneisen	100

Election Type:	Election Date	Election #	Tray #
☐ PRIMARY ☑ GENERAL ☐ SPECIAL ☐ JURISDICTION	11-03-20	[illegible]	[illegible]

Write Name for Special or Jurisdiction

MARICOPA COUNTY ARIZONA

	SEQ:	1-50	51-100	101-150	151-200	Combined Totals (A-D)
	Column:	A	B	C	D	
1	Total # of AFFIDAVITS	50	50	50	50	200
2	Ballots: Total REJECTED	0	0	0	0	0
3	Ballots: Total to DUPLICATION	0	0	0	0	0
4	Ballots: Total to TABULATION	50	50	50	50	[illegible]

Why would I duplicate a ballot?

E. ***Damaged Ballot:***
Torn or cut, sticky, timing marks not visible, spill that results in a stain overlapping timing marks, tape, etc.

F. ***Erroneous Ballot:***
Alternate Format (e.g., Braille, Lg. Print), Precinct and/or Ballot Color **DOES NOT** match affidavit information. If party on affidavit does not match party on ballot, ask for assistant.

DUPLICATION *(Enter Total # of ballots to be DUPLICATED on line 3 above)*

Column	PER AFFIDAVIT ENVELOPE			☑ Reason Below	
	PRECINCT/DIST	COLOR	PARTY	E	F

Why would I reject something?

G. ***Multiple Ballots:***
Ask for assistance if affidavit contains multiple ballots.

H. ***Insufficient:***
Affidavit contained no ballot or ballot is not from current election.

REJECTED *(Enter Total # of ballots from "H" to be REJECTED on line 2 above)*

Column	ID NUMBER	☑ Reason Below	
		G	H

White – *Place on Ballots in Tray* **Yellow** - *Paperclip to Tray Report* **Pink** – *Rubber band with Affidavits*

EARLY VOTING REPORT	Board #	Today's Date	Boardworker #1	Boardworker #2	BIN #
	4	11-6-2020	B Primm	T Highsmith	1031

Election Type:	Election Date	Election #	Tray #
☐ PRIMARY ☒ GENERAL ☐ SPECIAL ☐ JURISDICTION	11-3-202[illegible]	[illegible]	[illegible]

Write Name for Special or Jurisdiction

	SEQ:	1 - 50	51-100	101-150	151-200	Combined Totals (A-D)
	Column:	A	B	C	D	
1	Total # of AFFIDAVITS	50	50	50	50	200
2	Ballots: Total REJECTED	0	0	0	0	0
3	Ballots: Total to DUPLICATION	0	0	0	0	0
4	Ballots: Total to TABULATION	50	50	50	50	[illegible]

Why would I duplicate a ballot?

E. *Damaged Ballot:*
Torn or cut, sticky, timing marks not visible, spill that results in a stain overlapping timing marks, tape, etc.

F. *Erroneous Ballot:*
Alternate Format (e.g., Braille, Lg. Print), Precinct and/or Ballot Color **DOES NOT** match affidavit information. If party on affidavit does not match party on ballot, ask for assistant.

DUPLICATION *(Enter Total # of ballots to be DUPLICATED on line 3 above)*

Column	PER AFFIDAVIT ENVELOPE			☑ Reason Below	
	PRECINCT/DIST	COLOR	PARTY	E	F

Why would I reject something?

G. *Multiple Ballots:*
Ask for assistance if affidavit contains multiple ballots.

H. *Insufficient:*
Affidavit contained no ballot or ballot is not from current election.

REJECTED *(Enter Total # of ballots from "H" to be REJECTED on line 2 above)*

Column	ID NUMBER	☑ Reason Below	
		G	H

White – *Place on Ballots in Tray* **Yellow** - *Paperclip to Tray Report* **Pink** – *Rubber band with Affidavits*

EARLY VOTING REPORT

Board #	Today's Date	Boardworker #1	Boardworker #2	BIN #
47	10-19-20	S. Stephen	R-Towne	11

Election Type:	Election Date	Election #	Tray #
☐ PRIMARY ☑ GENERAL ☐ SPECIAL ☐ JURISDICTION *Write Name for Special or Jurisdiction*	11-3-20	1377	1643

		SEQ:	1-50	51-100	101-150	151-200	Combined Totals (A-D)
		Column:	A	B	C	D	
1		Total # of **AFFIDAVITS**	50	50	50	50	200
2	Ballots	Total **REJECTED**	0	0	0	0	0
3	Ballots	Total to **DUPLICATION**	0	0	0	0	0
4	Ballots	Total to **TABULATION**	50	50	50	50	200

Why would I duplicate a ballot?

E. ***Damaged Ballot:***
Torn or cut, sticky, timing marks not visible, spill that results in a stain overlapping timing marks, tape, etc.

F. ***Erroneous Ballot:***
Alternate Format (e.g., Braille, Lg. Print), Precinct and/or Ballot Color **DOES NOT** match affidavit information. If party on affidavit does not match party on ballot, ask for assistant.

DUPLICATION *(Enter Total # of ballots to be DUPLICATED on line 3 above)*

Column	PER AFFIDAVIT ENVELOPE			☑ Reason Below	
	PRECINCT/DIST	COLOR	PARTY	E	F

Why would I reject something?

G. ***Multiple Ballots:***
Ask for assistance if affidavit contains multiple ballots.

H. ***Insufficient:***
Affidavit contained no ballot or ballot is not from current election.

REJECTED *(Enter Total # of ballots from "H" to be REJECTED on line 2 above)*

Column	ID NUMBER	☑ Reason Below	
		G	H

White – *Place on Ballots in Tray* **Yellow** - *Paperclip to Tray Report* **Pink** – *Rubber band with Affidavits*

EARLY VOTING REPORT

Board #	Today's Date	Boardworker #1	Boardworker #2	BIN #
30	10-30-20	S. Stephens	R Towne	601

Election Type:	Election Date	Election #	Tray #
☐ PRIMARY ☐ GENERAL ☐ SPECIAL ☐ JURISDICTION	11-3-20		

Write Name for Special or Jurisdiction

		SEQ:	1 - 50	51-100	101-150	151-200	Combined Totals (A-D)
		Column:	A	B	C	D	
1		Total # of AFFIDAVITS	50	50	50	50	200
2	Ballots	Total REJECTED	0	0	0	0	0
3	Ballots	Total to DUPLICATION	0	1	0	2	3
4	Ballots	Total to TABULATION	50	49	50	48	197

Why would I duplicate a ballot?

E. ***Damaged Ballot:***
Torn or cut, sticky, timing marks not visible, spill that results in a stain overlapping timing marks, tape, etc.

F. ***Erroneous Ballot:***
Alternate Format (e.g., Braille, Lg. Print), Precinct and/or Ballot Color **DOES NOT** match affidavit information. If party on affidavit does not match party on ballot, ask for assistant.

DUPLICATION *(Enter Total # of ballots to be DUPLICATED on line 3 above)*

Column	PER AFFIDAVIT ENVELOPE			Reason Below	
	PRECINCT/DIST	COLOR	PARTY	E	F
B	372	WHT	—	✓	
D	358	WHT	—		✓
D	485	PUR	—	✓	

Why would I reject something?

G. ***Multiple Ballots:***
Ask for assistance if affidavit contains multiple ballots.

H. ***Insufficient:***
Affidavit contained no ballot or ballot is not from current election.

REJECTED *(Enter Total # of ballots from "H" to be REJECTED on line 2 above)*

Column	ID NUMBER	Reason Below	
		G	H

White – *Place on Ballots in Tray* **Yellow** - *Paperclip to Tray Report* **Pink** – *Rubber band with Affidavits*