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. <u>Deleted Databases</u>

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.

	365 L		
teopen Drive Files Recover Rec	over Marked Find	🕅 🧐 🧐 🤐 e i i i 👘 🚳 Mark Find Previous Find Next File Mark Up Preview Contors Stop	
		ence Images/AZAud-E-089-3_EMS PRIMARY/AZAud-E-089-3_EMS.001	
Recognized1		Name R Size, Bytes Created Modified Accessed	
V Root		20200317 PPE-2019-12-18-12-08-39.Jdf 8.388.608 3/25/2020 4/12/2021 3/25/2020	
> SRECYCLE.BIN		20200317 PPE-2019-12-18-12-08-39.mdf 4,294,967,296 3/25/2020 4/12/2021 3/25/2020	
Databases		20200804PrimaryTemplate-2020-05-14-09-41-16.r 4,294,967,296 5/14/2020 4/12/2021 5/14/2020	
>			
System Volume	Information	AdjudicableBallotStore_2018_Maricopa_General_200 8,388,608 2/3/2020 1 4/12/2021 2/3/2020 1	
> 🗌 🧧 Temp		AdjudicableBallotStore_2018_Maricopa_General_2008_8388,608 2/3/2020 1 4/12/2021 2/3/2020 1	
> 🗌 🗙 Extra Found Files		AdjudicableBallotStore_20191105_Madison_Electiviii 8,388,608 11/1/2019 4/12/2021 11/1/2019	
>		AdjudicableBallotStore_20191105_Madison_Electiviii 75,497,472 11/1/2019 4/12/2021 11/1/2019	
		AdjudicableBallotStore_20191105_Madison_Electiv 75,497,472 11/4/2019 4/12/2021 11/4/2019	
		AdjudicableBallotStore_20191105_Madison_Electiviii 75,497,472 11/4/2019 4/12/2021 11/4/2019	
		AdjudicableBallotStore_20200317_PPE_2020-03-10 75,497,472 3/10/2020 4/12/2021 3/10/2020	
		AdjudicableBallotStore_20200317_PPE_2020-03-1(0) 209,715,200 3/10/2020 4/12/2021 3/10/2020	
		MajudicableBallotStore_20201103_General_2020-1 0 10/20/2020 4/12/2021 10/20/2020	
		AdjudicableBallotStore_20201103_General_2020-1 0 10/20/2020 4/12/2021 10/20/2020	
		MajudicableBallotStore_20201103_General_2021-0 8,388,608 2/3/2021 1: 4/12/2021 2/3/2021 1:	
		M AdjudicableBallotStore_20201103_General_2021-0 8,388,608 2/3/2021 1: 4/12/2021 2/3/2021 1:	
		MajudicableBallotStore_20201103_General_Post_L. 8,388,608 11/17/2020 4/12/2021 11/17/2020	
		AdjudicableBallotStore_20201103_General_Post_L. 8,388,608 11/17/2020 4/12/2021 11/17/2020	
		AdjudicableBallotStore_20201103_General_Post_L. 8,388,608 12/10/2020 4/12/2021 12/10/2020	
		MRC Template Bilingual-2019-12-09-14-57-12.1df 1,073,741,824 12/9/2019 4/12/2021 12/9/2019	
		MRC Template Bilingual-2019-12-09-14-57-12.mc= 4,294,967,296 12/9/2019 4/12/2021 12/9/2019	
		MRC Template Monolingual New-2020-06-12-14- 1,073,741,824 6/12/2020 4/12/2021 6/12/2020	
		MRC Template Monolingual New-2020-06-12-14-0 4,294,967,296 6/12/2020 4/12/2021 6/12/2020	
		MRC Template Monolingual-2019-12-09-14-57-4/@ 1,073,741.824 12/9/2019 4/12/2021 12/9/2019	
		MRC Template Monolingual-2019-12-09-14-57-4/iii 4.294.967.296 12/9/2019 4/12/2021 12/9/2019	
		RepublicanGenericJan2020-01-02-14-19-52.10 1,073,741,824 1/2/2020 2: 4/12/2021 1/2/2020 2:	
		□ X TabulationStore_2018_Maricopa_General_2020-02 8.388.608 2/3/2020 1 4/12/2021 2/3/2020 1	
		∑ TabulationStore_2018_Maricopa_General_2020-02 ■ 8,388,608 2/3/2020 1 4/12/2021 2/3/2020 1	
orted by: Real Extensions	Creation Time	Modification Time Access Time	E Details Small Icons 🗄 Medium Icons Large I
1			
Type Date	Time	Text	
Partition 5/9/2021	11:37:28 AM	E:/AZAudit/Evidence Images/AZAud-E-089-3_EMS PRIMARY/AZAud-E-089-3_EMS.001: Partition at 2048 extends beyond disk bounds	
Partition 5/9/2021	11:38:07 AM	E:/AZAudit/Evidence Images/AZAud-E-450-1_EMS PRIMARV/AZAud-E-450-1_EMS.001: Partition at 2048 extends beyond disk bounds	
Partition 5/9/2021 System 5/9/2021	11:38:22 AM 12:06:57 PM	E:/AZAudit/Evidence Images/AZAudrE-450-1_EMS PRIMARY/AZAudrE-450-1_EMS.001: Partition at 2048 extends beyond disk bounds Search for lost partitions on drive E:/AZAudrt/Evidence Images/AZAudrE-089-3_EMS PRIMARY/AZAudrE-089-3_EMS.001 has been completed in 23m 33s	
System 5/9/2021 File 5/10/2021	12:06:57 PM 12:52:41 PM	Search for lost partitions on drive E/AZAudit/Evidence images/AZAudrE-189-5_EMS PhIMARY/AZAudrE-189-5_EMS.001 has been completed in 25m 35s [Fileld: 131074] Closing attribute: parsed allocated size (3355432) differ from stored one (67108864)	
System 5/10/2021	12:53:24 PM	File enumeration was completed in 44 sec	
File 5/10/2021	12:53:30 PM	[Filed: 3542548495] Closing attribute: parsed allocated size (4194304) differ from stored one (8388608)	
File 5/10/2021	12:53:41 PM	[FileId: 3542548495] Closing attribute: parsed allocated size (4194304) differ from stored one (8388608)	
File 5/10/2021	12:53:41 PM	[FileId: 3542220824] Closing attribute: parsed allocated size (2147483648) differ from stored one (4294967296)	

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 <u>Tuesday, May 18, 2021 at 1:00 p.m.</u> 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,

Serator Karen Farm

Karen Fann, President Arizona State Senate

Exhibit A

EARLY	38 10	7-0	's Date D-J	Om.	Fer	rker #1 CUNE	4 .	rdworker #2 DNM M9		7	
VOTIN REPOR	Election Type:	1.1.1	ection I	1	Ele /2	ection # 3,7,7	1.4	тгау.# 2104		101	
REPOR	SPECIAL JURISDICTION		Write	Name for S	oecial or J	urisdiction					
ALL ALL	SEQ:	1	.50	51-10	00	101-10	50	151-20	Com	bine	
COUNT	Column:		A	E	3	С		D		N-D)	
1	Total # of AFFIDAVITS	٢	<i>70</i>	60)	50		50	20	00	
2	Total REJECTED	(2	Q		0		0	. 4	>	
8 allots	Total to DUPLICATION	Ż	>	C)	0		0	2	S	
4	Total to TABULATION	5	0	3	5	50		50	Z	¢.	
Why would	I I duplicate a ballot?		DI	JPLICA	TION			otal # of bal ATED on line	3 above)	
E. Damag			Colum	n PREC	PER A	FFIDAVIT E	NVEL	OPE PARTY	Reas	on Belo	
not vis	r cut, sticky, timing mark sible, spill that results in a	3									
stain c tape, e	overlapping timing marks etc.	•					<u>an</u> y				
F. Erroneo											
Print),	ate Format (e.g., Braille, Precinct and/or Ballot										
	DOES NOT match affiday nation. If party on affiday								-		
	not match party on ballo r assistant.	ι,									
								1			
	Id I reject something?		ß	DET	CTE!	(EI		otal # of ball			
Ask	G. Multiple Ballots: Ask for assistance if affidavit contains multiple ballots.			Column	IECTED (E ID NU		be REJECTED on lin			ne 2 above) ✓ Reason Belov	
H. Insuff			ļ								
	lavit contained no ballot ot is not from current ele		-					anna 11. Saiste			
			a de			Report		- Rubber ban	L	1	

.

EARL VOTI REPC	NG PRIMARY	1/-06 E /	y's Date	Date	Boardwo EJcun El El	<i>Circ</i> ectio	s 4 n#	Boardworker	#2	BIN #
C ALLER C	SEQ: Column:	1	- <i>50</i> A	51	- <u>100</u> B	11	1-75e C) <i>1517a</i> D	<u> </u>	mbined Fotals (A-D)
1	Total # of AFFIDAVITS	E	0	5	0	E	50	50	2	∞
2	Total REJECTED	E	3		∂	4	9	$ \phi$	X	3
Ballots	Total to DUPLICATION	É	ク		Ø	4	3-	Θ	4	9-
4	Total to TABULATION	E	0	5	0		\mathcal{O}	SC		
E. Damag Torn o not vi stain o tape,		a	Column	• • •	ATION PER AI CINCT/D				e 3 abor	
Altern Print), Color Inform does r	ous Ballat: late Format (e.g., Braille, Precinct and/or Ballot <u>DOES NOT</u> match affida nation. If party on affida not match party on ballo rassistant.	vit vit								
	ld I reject something? ole Ballats:	l Here Maria		REI	ECTED			Total # of ball		
<u>Ask f</u> conta H. Insuffi Affida	or assistance if affidavit ans multiple ballots.		Col	umn		ID	be I NUMBE	R <u>EJECTED on l</u>	🗹 Reas	ove) on Below H

EARLY VOTING REPORT Election Type: PRIMARY A GENERAL SPECIAL JURISDICTION	<u></u>	0 BRy	iection #	Boardworker # Hipson Tray #	en#
SEQ: Column:	1-50 A	SHIDU B	101150 C	15/200 D	Combined Totals (A-D)
1 Total # of AFFIDAVITS	50	50	50	50	200
2 Total REJECTED	6	6	Q	Ð	Ð
3 Total to DUPLICATION	Ø	Ø	Ø	Ø	Ð.
4 Total to TABULATION	50	50	50	50	and the second
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, I.g. Print), Precinct and/or Ballot Color <u>DOES NOT</u> match affidavit information. If party on affidavit does not match party on ballot, ask for assistant.				PARTY	
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			(Enter Te be RE ID NUMBER		from "H" to 2 above) Reason Below G H
White – Place on Ballots in Tray Ye	ellow - Pape			Rubber band wit	

E ARL V OTI	Y 47 10	oday's Date -19-20 Election I	Boardwo S.Stef Date El	orker #1 B Dhen / ection #	R-TOWN Tray #	BIN	2 × 15	
REPC	1	JI-3-	Name for Special or.	Iurisdiction	1683		i e	
	SEQ: Column:	1-50 A	51-100 B	101-150 C	157-200 D	Combined Totals (A-D)		
1	Total # of AFFIDAVITS	50	50	50	50	200		
2	Total REJECTED	Ð	ð	0	0	<i>0</i> -		
e Ballots	Total to DUPLICATION	θ	0	Ð	9	0-	с. Х.	
4	Total to TABULATION	50	50	50	50	200	÷	
not v stain tape, F. Errone Altern Print) Color inforr does	or cut, sticky, timing marks isible, spill that results in a overlapping timing marks, etc. ous Ballot: nate Format (e.g., Braille, L , Precinct and/or Ballot <u>DOES NOT</u> match affidavit nation. If party on safidavi not match party on ballot, or assistant.	B.						
	ıld I reject something? iple Ballots:		REJECTED		Total # of ballot			
Ask	for assistance if affidavit ains multiple ballots.	Ca	olumn	ID NUMBE	REJECTED on line	G H		
	ficient: lavit contained no ballot or ot is not from current electi							
White –	Place on Ballots in Tray	Yellow - Par	perclip to Tray R	eport Pink	– Rubber band v	with Affidavits		

VOTING REPORT	Ilection Type: PRIMARY GENERAL SPECIAL JURISDICTION	11-	ion D:	ane for special or	éctic	in #	Tray #		BIN#	
	SEQ: Column:	1 - A	0	<u>57-700</u> B	10	1-19) C	<u>K/-20</u> D	1 1 Sec. 1	ombinec Totals (A-D)	
1 A	Total # of FFIDAVITS	57);	50	4	50	Ś	1	200	
2	Total REJECTED	÷÷		÷		⊖-	Ð		to T	
3 gallots	Total to	θ		1		0-	12		Ş	
4 TAI	Total to BULATION	52)	49	1	50	48		47	
Why would I duplic	ate a ballot?		DUP	LICATION			otal # of ba ATED on line			
E. Damaged Ballot Torn or cut, stic not visible, spill stain overlappir tape, etc.	ky, timing mark that results in a	s	umn E 2	PER A		COLOR MAT WHT	DPE PARTY	E E	Asson Below F	
F. Erroneous Ballot Alternate Form Print), Precinct Color <u>DOES NO</u> information. If p does not match ask for assistant	at (e.g., Braille, L and/or Ballot <u>I</u> match affidavi party on affidavi party on ballot,	t				PUK		<u></u>		
Why would I reject	something?									
G. Multiple Ballots: Ask for assistance if affidavit contains multiple ballots.			Colu	REJECTED	ID		IECTED on li	# of ballots from "H" to TED on line 2 above) Reason Below G H		
H. Insufficient: Affidavit contal	ned no ballot or	ion.								