

# Exhibit A

Exhibit A

1 **Declaration of Charles Fisher**

2 1. I am over 18 years old, competent to testify, and have personal knowledge of the  
3 matters in this declaration.

4 2. I am the Executive Director of the Arizona Democratic Party (“ADP”). I am  
5 familiar with the mission and goals of ADP, as well as our members’ priorities and concerns.

6 3. I have personal knowledge of the matters set forth in this Declaration. Except  
7 where described otherwise, my personal knowledge is based on my personal participation in or  
8 observation of the matters set forth herein.

9 4. ADP is committed to electing Democrats in Arizona, growing the number of  
10 registered Democrats in the state, and representing the interests of registered Democrats in  
11 various ways. Specifically, ADP is committed to protecting and preserving Democrats’ right to  
12 vote, their right to secret ballot, and their right to secure elections.

13 5. There are 816,745 registered Democrats in Maricopa County whose voter  
14 registration information is currently in possession and under the control of Cyber Ninjas.

15 6. Approximately 84% of them (688,946 registered Democrats) voted in the 2020  
16 General Election and have ballots that they cast in possession and under the control of Cyber  
17 Ninjas.

18 7. As an organization, ADP is deeply concerned about the erosion of public trust in  
19 our elections and efforts by Arizona’s Republican-led Legislature to make it harder to vote. ADP  
20 was vocal in its opposition to numerous lawsuits that were brought after the 2020 General  
21 Election to undermine the will of voters and change the results of the election based on false  
22 narratives of fraud.

23 8. I am familiar with the so-called “audit” that Senate Republicans in Arizona, led by  
24 President Fann and Senator Petersen, are conducting.

25 9. The threat of an audit conducted in violation of Arizona law – one that threatens  
26 the integrity of an elections system on which ADP relies and the confidentiality on which its

1 members rely – has frustrated ADP’s mission and forced it to divert resources in response. In  
2 just the past few weeks, I estimate that we have spent 50 hours of staff time (totaling thousands  
3 of dollars) reacting and responding to issues related to the Senate’s “audit,” and ADP has already  
4 incurred tens of thousands of dollars in attorneys’ fees to monitor the situation and bring this  
5 litigation to preserve its rights, and the rights of its members.

6 10. On March 26, 2021, Ken Bennett the Senate’s liaison for the audit contacted ADP  
7 and requested the names of Democrats who may be willing to serve as his co-liaison.

8 11. At the time, Mr. Bennett was not aware who the Senate was planning to hire to  
9 assist with the audit.

10 12. I spoke to Mr. Bennett for approximately 30 minutes and explained that, to  
11 consider his request, ADP needed information about the plan, schedule, process and procedures  
12 that the Senate planned to utilize for the audit. I explained that ADP was particularly interested  
13 in knowing how the Senate would protect the security and confidentiality of ballots and election  
14 equipment so as to not compromise the interests of ADP’s members and all Arizona voters.

15 13. Mr. Bennett told me the following: (a) he was working on developing procedures  
16 for the audit, (b) he expected the audit would not uncover any fraud, but agreed procedures were  
17 necessary, and (c) he would contact me again after he learned the identity of the contractor so  
18 that he could renew his request for ADP to participate.

19 14. At some point after my March 26 call with Mr. Bennett, President Fann retained  
20 Cyber Ninjas. The Master Services Agreement and Statement of Work entered into by Cyber  
21 Ninjas is broad and includes references to knocking on voters’ doors and interrogating them  
22 about votes cast in the last election.

23 15. I spoke to Mr. Bennett again on April 2, 2021 and he renewed his request for a  
24 Democratic co-liaison. I again requested from Mr. Bennett information about the plan, schedule,  
25 policies, and procedures for the audit. I also explained that ADP had serious concerns about the  
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1 involvement of Cyber Ninjas and the fact that former Maricopa County Recorder Helen Purcell  
2 publicly stated her opposition to the audit and refused to participate in any way.

3 16. I also raised our members' concerns relating to the security and confidentiality of  
4 ballots, voter records, and tabulation machines.

5 17. Mr. Bennett assured me that he was working with Cyber Ninjas to develop policies  
6 and procedures, that they were committed to being transparent about the audit plan and process,  
7 and that he would get back to me soon with the information I requested.

8 18. At this point, it was unclear whether the audit would even proceed because the  
9 Senate had asked Maricopa County to delay delivery of the materials, and there was no plan in  
10 place for the location and staffing of the audit.

11 19. On April 9, 2021, and on at least one occasion thereafter, public records requests  
12 were sent to obtain copies of all documents relating to the audit, including procedures for  
13 handling ballots and equipment and policies for ensuring the security of such items.

14 20. On April 14, 2021, ADP learned that a contract had been signed with Arizona  
15 Veterans Memorial Coliseum for the audit. I contacted Mr. Bennett and requested a call with  
16 him as soon as possible to find out whether he had developed policies and procedures for the  
17 audit and how Cyber Ninjas planned to maintain the security and confidentiality of ballots, voter  
18 files, and election equipment.

19 21. Mr. Bennett agreed to have a call on April 19, 2021. During that call, which lasted  
20 approximately one hour, I requested information about the audit schedule, process, and  
21 procedures.

22 22. Mr. Bennett said that the audit will begin on Friday, April 23. He said, "it will go  
23 until it's done." He also said that he did not expect it will take longer than scheduled and, in fact,  
24 he boasted that they will likely finish early because they have built in a cushion based on the  
25 number of days Cyber Ninjas believes they need and the number of days they have the Coliseum.  
26



1           23. Mr. Bennett described the audit has having three main components: (a) a  
2 subcontractor of Cyber Ninjas will review Dominion machines and "other equipment"; (b) hired  
3 staff will tabulate 2.1 million ballots through a machine and conduct a "hand count audit" of  
4 those same ballots to make sure the votes match; and (c) hired staff will compare ballot envelope  
5 signatures with signature samples from electronic voter records. Mr. Bennett said that the County  
6 has already transmitted electronic files including voter files.

7           24. When asked multiple times about the procedures for the audit and whether Mr.  
8 Bennett plans to publish the procedures before the audit begins, Mr. Bennett became defensive  
9 and said that if ADP wants information about what is happening at the audit, we should identify  
10 a co-liaison to work with him. Mr. Bennett further stated that Cyber Ninjas was tasked with  
11 developing procedures, but he does not know what they are. He admitted that he is "finding out  
12 as things happen" and "adjusting things as they happen."

13           25. When challenged regarding his statement that ADP must participate in order to get  
14 information about the procedures, Mr. Bennett said, "if you want full transparency, then send a  
15 co-liaison to stand with me."

16           26. It was during this call that ADP learned for the first time that no procedures,  
17 policies, plan, or schedule would be shared in advance of the audit. Moreover, this call raised  
18 serious concerns about the existence of any policies and procedures to maintain the security and  
19 confidentiality of Democratic voters' ballots, voter file information, and election equipment that  
20 is necessary for the integrity of elections in Arizona.

21           27. At around the same time, I became aware of news reporters obtaining unfettered  
22 access to the Coliseum, and uncovering similar concerns that I had about the lack of formal  
23 process being employed by Cyber Ninjas and Mr. Bennett.

24           28. My opinion was based on reviewing tweets from journalists, two stories that were  
25 written based on the observations that were also captured in their real-time twitter feed are  
26 attached hereto as Exhibits A and B.

1           29.    Shortly after filing the suit, I watched the press conference delivered by Mr.  
2 Bennett and the CEO of Cyber Ninjas. ABC 15, "Arizona Election Audit Press Conference,"  
3 *available at:* <https://www.facebook.com/ABC15/videos/445083626589120> (last viewed  
4 4/24/2021).

5           30.    In this conference, at minutes 12 and 45, the auditors make clear that the  
6 individuals actually handling the ballots will not be balanced for party affiliation, but instead are  
7 chosen based on criteria related to "respectable" professions, passing a background check, and  
8 not having problematic social media history.

9           31.    In this conference, at minute 16 and 31, the auditors provide conflicting  
10 information on the conduct of door-to-door voter interrogation, including when the process will  
11 begin and what the basis will be for being subjected to these interrogations.

12          32.    In light of increasingly troubling reports of the lack of formal procedures to be  
13 employed during the audit and conflicting reports about potential voter interrogations to be  
14 conducted by Cyber Ninjas and perhaps its subcontractors, the ADP has diverted resources from  
15 its primary objective of promoting Democratic principles, to warning its members of the  
16 impending crisis and developing "Know Your Rights" training should its members be the target  
17 of the interrogations by Cyber Ninjas or their subcontractors.

18          33.    The admissions made at minute 16 going forward make clear that the auditors will  
19 be in possession of voter history, voter addresses, voter signatures, and other aspects of the voter  
20 file, although at minute 42, the auditors disclaim that they currently have possession of envelopes  
21 with the voter's signature.

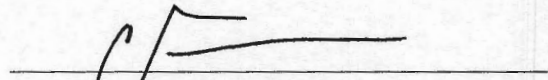
22          34.    In this conference, at minute 13 and 20, the auditors refused to provide information  
23 about funding of the audit.

24          35.    The various admissions made by the auditors in the press conference increased my  
25 already grave concerns about the integrity of ballots cast by ADP members and the privacy and  
26 security interests of ADP members registered to vote in Maricopa County.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 25, 2021.

  
\_\_\_\_\_  
Charles Fisher

# Exhibit A

Exhibit A



**ELECTIONS**

# Arizona Senate audit gets off to shaky start, with rules finalized on the fly

**Jen Fifield** Arizona Republic

Published 6:29 p.m. MT Apr. 23, 2021 | Updated 10:01 p.m. MT Apr. 23, 2021

The Arizona Senate Republicans' hand count of all 2.1 million Maricopa County ballots cast in November's presidential election got off to a shaky start on Friday morning.

Procedures seemed to be finalized on the spot, and a few significant changes were made during the day as the Senate's contractors started the recount at the Arizona Veterans Memorial Coliseum.

The changes included:

What color ink pens are allowed on the audit floor as ballots are being counted, which matters because a counter using blue ink could alter a ballot, confusing the voter's intent.

How the ballots were tracked after being taken out of their secure holding area on the floor, which could affect the election results.

And how the counters and observers communicated throughout the process.

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The audit got off to a late start after the morning was spent seeing that the computer software was programmed correctly to review the ballots, that forms had the correct fields for ballot trackers to fill out, and that the ballot counters and supervisors were trained.

Counters had made it through about 150 ballots by about 1 p.m. and were still working on their first box. There are 46 pallets of boxes and 1,691 boxes of ballots, although some of the boxes do not have ballots in them, said Megan Gilbertson, spokesperson for the Maricopa County Elections Department.

The Senate only has so long to complete the complete recount — they have rented the coliseum until May 14. Along with the recount, auditors are examining voting machines and attempting to verify voter information.

Ken Bennett, the Senate's appointed liaison for the audit and former secretary of state, said on the audit floor that he saw a few ways to improve the process, but that he was not in charge. He said that Cyber Ninjas, the group the Senate hired to perform the work, and their contractors had decided on how the audit would be run.

No county staff was on hand to explain how ballots were stored or how voting machines were programmed.

Journalists were denied specific access to report or record the process, although The Arizona Republic and other media outlets have joined together seeking their reporters' immediate access to the coliseum to observe the audit of the ballots and tabulating equipment. For now, this reporter signed up as a volunteer observer to gain at least that access, working a six-hour shift on Friday.

## **Lack of procedures concerns Democratic Party**

The lack of clear procedures and controls on Friday caused even more concern from the Arizona Democratic Party and Maricopa County Supervisor Steve Gallardo, who had filed a last-minute lawsuit in Maricopa County Superior Court on Thursday night attempting to stop the audit.

"The Senate has told us that they're running this so-called audit," Roopali Desai, a lawyer for the Democratic Party, and Gallardo told the judge on Friday. "They have abdicated their duty entirely to rogue actors who are making a mockery, with all due respect, of our election laws and procedures and there are no safeguards in place. There's no proper training. No procedures. No rules."

The concerns prompted a Maricopa County Superior Court judge to issue an injunction stopping the audit until Monday, but only if the Democratic Party would post a \$1 million bond to cover the potential costs of the delay. The party said Friday it would not pay and the recount continued.

The lawsuit is the latest attempt to try to stop the Senate from conducting the audit after the Senate finally had taken control of the ballots and voting machines after a months-long fight with the Maricopa County Board of Supervisors.

The county already had done multiple audits of the election results, including a hand count of a statistically significant number of ballots and multiple audits of voting machines. All of the audits came back clean, showing that votes were counted correctly.

## Procedures under scrutiny

One major issue came up as the contractors began to unpack the boxes: The Senate's contractors had programmed its software and developed its procedures believing that they would be dealing with batches of a certain amount of ballots and that boxes would be grouped in a certain way.

Gilbertson said that while early ballots are delivered in batches, Election Day ballots are not, and the number of ballots in each batch differs.

A few other procedures stuck out as differing from the way that Maricopa County completes its audit and the way that is outlined in Arizona state election law.

The first was regarding the color of pens on the audit floor.

### **Blue ink, black ink, red ink:** Why ink color matters when handling Arizona ballots

State election law says that ballot counters may not bring any black pens or blue pens into the designated location of the hand count. But when counters arrived on Friday, a blue and red pen was waiting at each of their spots, and other blue pens were seen throughout the auditing floor, including near where the ballots would be scanned.

The Republic questioned Doug Logan, the CEO of Cyber Ninjas, who initially said his understanding was that blue ink was fine. After checking further, Logan had the blue pens removed and replaced them with green pens before any real ballots were taken out of the boxes.

Logan also said before the audit began that they did not ensure that each counting board of three people had bipartisan representation. This is a practice with Maricopa County hand counts, which are run by the political parties themselves.

He told volunteer observers that he was counting on them to watch closely to ensure that the counters were counting ballots correctly.

Another practice that differed was the communication among the counters.

Three counters reviewed each ballot. As the first box of ballots was being counted, the counters were sometimes saying out loud which candidates they were marking votes for. They were also comparing the number of ballots that they had counted at certain times during the count.

Under Arizona election law, tallies should be documented independently and not compared until the end of each batch.

Bennett also questioned the way that the boxes of ballots were being tracked after they left their secure holding area. He said he thought there should have to be someone to sign off when a box reaches a certain table, and at every step of the process.

It's unclear what the final decisions were on some of the changes being made.

## **Access issues by observers**

Access issues also occurred Friday.

Observers were told to arrive at 7:30 a.m. but then did not get let through the coliseum gates until after 8 a.m., and some were turned away.

The people working at the gates said that because the Senate's observer sign-up sheet was disabled by Google, they lost some of the names of those who had volunteered.

And unlike at county election offices, where journalists are invited to photograph and film an audit process, reporters can't go inside unless they sign up to work six-hour shifts as observers. And observers can't have cameras or notepads of their own.



*Republic reporter Andrew Oxford contributed to this article.*



*Reach the reporter at [jen.fifield@azcentral.com](mailto:jen.fifield@azcentral.com) or at 602-444-8763. Follow her on Twitter @JenAFifield.*

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# Exhibit B

Exhibit B

[https://www.azfamily.com/news/investigations/cbs\\_5\\_investigates/security-lapses-plague-arizona-senates-election-audit-at-state-fairgrounds/article\\_b499aee8-a3ed-11eb-8f94-bfc2918c6cc9.html](https://www.azfamily.com/news/investigations/cbs_5_investigates/security-lapses-plague-arizona-senates-election-audit-at-state-fairgrounds/article_b499aee8-a3ed-11eb-8f94-bfc2918c6cc9.html)

ARIZONA'S FAMILY INVESTIGATES

# Security lapses plague Arizona Senate's election audit at State Fairgrounds

MORGAN LOEW

UPDATED 23 HRS AGO

**PHOENIX (3TV/CBS 5)** - Arizona Senate election audit officials refused to address a series of security lapses and problems exposed by Arizona's Family Investigates, the night before the controversial recount was to begin.

"I question why security wasn't already in place," said Karl de la Guerra, who is a protective services consultant with 43 years in the industry. De la Guerra was reacting to a video sent to him by Arizona's Family Investigates. The video exposed a lack of security at the Arizona Veteran's Memorial Coliseum, the audit location. State Senate Republicans are performing the audit, but doing so on a shoe-string budget. And critics argue that the company hired to lead the operation is run by a Trump supporter who had tweeted false conspiracy theories about the election.

"I think the fact of the matter is that there have been numerous legitimate audits that have shown that there were no discrepancies," said Sen. Rebecca Rios, who is the leading Democrat in the state Senate.

After watching the video shot by Arizona's Family Investigates, Rios said the audit should be called off. "I don't know how



The people running this audit are supposed to ensure that the Veterans Memorial Coliseum, where the auditing and counting is happening is secure.

(Source: 3TV/CBS 5)

people walk away feeling comfortable about what is going on. We have asked repeatedly, "What is the plan? What is the plan for security?" said Rios.



County supervisor, Democrats file injunction to stop GOP audit of Arizona election results

At issue is the security of Maricopa County's election equipment and every ballot cast in the 2020 general election. A judge ordered county elections officials to turn everything over to Senate Republicans for the audit. The equipment and ballots had been held in the county facility known as "The Vault," because security is so tight. But Senate President Karen Fann chose the coliseum for the audit, which is not considered a secure location. "It is a very, very porous, what we call, 'Soft target public venue,'" said de la Guerra.

Added to the challenges of securing the location is the cost. Maricopa County Sheriff's Office officials estimated it would have cost the county \$175,000 for security alone, if the sheriff's office would have agreed to protect the site. Sheriff Paul Penzone declined, citing the cost and the effect taking those deputies off the street would have on public safety.

### **Maricopa County delivering ballots, equipment for election audit**



The total amount of money Fann has dedicated to the audit is \$150,000. That is taxpayer money, but it is supposed to cover the facility expenses, four auditing companies, as well as security. Contractors are accepting private donations, although the audit officials refused to reveal how much they have taken in and from whom.

The contract between Senate Republicans and the audit companies states that the companies are responsible for security. The audit's Twitter page stated, "Please be assured that a robust security plan is in place to protect the ballots, equipment, workers and volunteer observers."



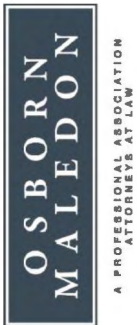
Arizona Senate will conduct audit at state fairgrounds

But on Monday, Tuesday, Wednesday and Thursday, the Arizona's Family Investigates team gained access to the coliseum, its hallways, staircases and the main floor, where the computer equipment will be used by the auditors. The team was able to get close to the actual ballots and county computer equipment. At no time did anyone at the site ask the team to leave. At no time did the team enter through any doorway or entry that contained a "No Trespassing" or "Restricted Access" sign.

***Morgan Loew's hard-hitting investigations can be seen weekdays on CBS 5 News at 6:30 p.m. and 10 p.m.***

# Exhibit B

Exhibit B



1 Mary R. O'Grady, 011434  
Joshua D. Bendor, 031908  
2 Emma J. Cone-Roddy, 034285  
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6 [econe-roddy@omlaw.com](mailto:econe-roddy@omlaw.com)

7 Attorneys for Secretary of State Katie Hobbs

8

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

10

IN AND FOR THE COUNTY OF MARICOPA

11

ARIZONA DEMOCRATIC PARTY, an  
Arizona political party and political action  
12 committee; and STEVE GALLARDO, a  
qualified elector,

No. CV2021-006646

13

**DECLARATION OF SAMBO (BO)  
DUL**

14

Plaintiffs,

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vs.

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KAREN FANN, in her official capacity as  
President of the Arizona Senate;  
17 WARREN PETERSEN, in his official  
capacity as Chairman of the Senate  
18 Judiciary Committee; KEN BENNETT, in  
his official capacity as the liaison of the  
19 Arizona Senate; and CYBER NINJAS,  
Inc., a Florida corporation,

20

Defendants.

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22

I, SAMBO (BO) DUL declare as follows:

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1. I am over 18 years of age and am competent to testify regarding the  
24 matters discussed in this declaration.

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2. I am the State Elections Director in the Arizona Secretary of State's  
26 Office. In this role, I oversee the Election Services Division in the Department of State.

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I have served in this role since January 2019.

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**A. The Elections Procedures Manual**

3. As the State Elections Director, I oversaw the drafting of the 2019 Elections Procedures Manual (EPM), working in close collaboration with County Recorders and Elections Directors and their staff. After approval by the Governor and Attorney General, the EPM has the force and effect of law and governs the administration of elections and the handling of election materials in Arizona.

4. Arizona law, in A.R.S. § 16-452, directs the Secretary of State to “prescribe rules [in the EPM] to achieve and maintain the maximum degree of correctness, impartiality, uniformity and efficiency on the procedures for early voting and voting, and of producing, distributing, collecting, counting, tabulating and storing ballots.” Accordingly, the EPM, consistent with applicable provisions in Title 16 of the Arizona Revised Statutes, spells out detailed rules and procedures intended to ensure, among other things, (i) the security and confidentiality of ballots and voting and tabulation equipment, and (ii) the accuracy and reliability of ballot counting and tabulation.

5. For example, as to ballots Chapter 8, Section V(E) of the EPM, at page 157, states that, for security reasons, official ballots must be: (i) properly inventoried; (ii) accessible only by elections staff to the extent necessary to perform their authorized task; (iii) stored in a locked, secured location that prevents unauthorized access; (iv) access to the ballot storage location must be documented with a written log or with electronic keycard access that indicates the date, time, and identity of the person accessing the ballots; and (v) must be witnessed by two or more elections staff members when moved or transferred. Further, Chapter 10 of the EPM, at pages 195 to 212, details additional procedures for handling ballots at the various stages of processing at the central counting facility.



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6. As to voting equipment, Chapter 4, Section III of the EPM, at pages 95 to 98, provides detailed procedures to ensure the physical, data, and cyber security of the equipment that make up the voting system.

7. Pursuant to A.R.S § 16-442, all components of a voting system that is used to define ballots, cast and count votes, report or display election results, and maintain and produce any audit trail information is required by law to be properly certified by: (i) a Voting System Test Laboratory (VSTL) accredited in accordance with the Help America Vote Act; (ii) the federal Election Assistance Commission (EAC); and (iii) the Secretary of State, based on a recommendation from the state Election Equipment Certification Committee. Chapter 4, Section I of the EPM, at pages 76 to 86, details the procedures and standards required for certification.

8. Voting equipment in Arizona also undergoes extensive logic and accuracy testing prior to being deployed for use in any election, and again after an election. Chapter 4, Section II of the EPM, at pages 86 to 95 provides detailed procedures for logic and accuracy testing of accessible voting devices and tabulation equipment to ensure proper functioning and that the equipment accurately attributes and tabulates votes as required by A.R.S § 16-449. Counties must conduct pre-election logic and accuracy testing on all equipment prior to deploying the equipment in an election. For elections with a federal, statewide, or legislative race, the Secretary of State’s Office conducts an additional logic and accuracy test on a random sample of each county’s equipment. Further, pursuant to Chapter 12, Section II of the EPM, at page 235, counties must conduct a post-election logic and accuracy test on tabulation equipment after the official count is complete but before the county canvass.

9. Finally, consistent with A.R.S § 16-602, Chapter 11 of the EPM, at pages 213 to 234, details the procedures the limited precinct hand count audit and early ballot hand count audit that must be conduct with political party participation after each countywide election and compared against the results from the electronic tabulation

1 system. Detailed hand count tabulating methods are laid out in Chapter 11, Section VII  
2 of the EPM, at pages 222 to 224, and a sample hand count audit tally sheet and other  
3 hand count audit forms are provided among the sample forms in Chapter 17 of the EPM,  
4 at pages A237 to A248. Chapter 11, Section IX contains guidelines for determining  
5 voter intent in the hand count. Further, prior to the November 2020 General Election,  
6 **the Secretary of State’s Office issued a more detailed voter intent guide to facilitate**  
7 **more statewide consistency in determining voter intent. Attached hereto as Exhibit 1 is a**  
8 **true and correct copy of the Secretary of State’s 2020 Voter Intent Guide.**

9 10. These and other provisions of Arizona law and the EPM work together to  
10 ensure the security, integrity, and accuracy of our elections and election results, from  
11 start to finish. A summary of the many ways in which Arizona secures our elections is  
12 attached hereto as Exhibit 2.

13 **B. The Secretary’s March 3, 2021 Letter**

14 11. On March 3, 2021, shortly after Judge Thomason’s ruling in *Maricopa*  
15 *County et al. v. Fann et al.*, Case No. CV2020-016849, clearing the way for Maricopa  
16 County to comply with the Senate’s subpoena, Secretary Hobbs sent a letter to Senate  
17 President Karen Fann and Senator Warren Petersen urging them to treat their  
18 responsibility for the custody, security, and integrity of the subpoenaed materials with  
19 the same level of vigilance that election officials treat that responsibility. Secretary  
20 Hobbs also stressed the importance of establishing, disclosing, and abiding by clear  
21 procedures to ensure: (i) the security and confidentiality of the ballots, voting  
22 equipment, and other election materials, and (ii) the independence, transparency, and  
23 reliability of any audit conducted. **The Secretary’s letter detailed for the Senators a list**  
24 **of minimal procedures and requirements, with citations to the EPM. Attached hereto as**  
25 **Exhibit 3 is a true and correct copy of the March 3, 2021 Letter from Secretary Hobbs to**  
26 **President Fann and Senator Petersen (hereinafter, the “March 3rd Letter”).**

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12. The Secretary of State’s Office received no response or follow-up to the March 3rd Letter and developments in the last week have only deepened our concerns regarding the lack of established or disclosed procedures and the serious transparency and security shortcomings in the conduct of the audit.

**C. Lack of Transparency on Selection of Auditors**

13. The Secretary’s March 3rd Letter specifically urged the Senators to “[d]evelop and make available to election officials and the public the procedures and criteria, including as to qualifications and independence, [that] will [be] use[d] to select the firms and/or individuals who will be charged with conducting any further audits or otherwise handling the ballots and election equipment.” The March 3rd Letter also stated that the Secretary of State’s Office had been in communication with nonpartisan post-election audit experts who were ready and willing to travel to Arizona to assist the Senate in conducting a secure and transparent audit of the 2020 General Election in Maricopa County, and offered to connect the Senate directly to those organizations and other experts in post-election audits.

14. Unfortunately, our request for transparency and independence as to the selected auditors, and offer of assistance and connection to reputable, nationally-recognized experts, were ignored. Instead, President Fann announced on March 31, 2021 that the Senate had hired Cyber Ninjas Inc.—whose founder and CEO has a history of spreading unfounded election conspiracies—to lead the audit. No information was provided about the process or criteria used to select the auditors, or what other companies put in bids. Based on public records later provided by the Senate, the Arizona Capitol Times reported that “Arizona Senate President Karen Fann passed up an opportunity to hire an experienced auditing company to conduct its ballot review, opting instead for a company without experience and whose founder has said he believes President Joe Biden stole the election.” Attached hereto as Exhibit 4 are true and correct copies of media reports about the Senators’ selection of their audit ors.

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**D. Lack of Transparency on Audit Procedures; Problems with Those Procedures That Are Known**

15. The Secretary’s March 3rd Letter urged the Senators and their auditors to “[m]ake available to election officials and the public the standards and procedures that will be followed in conducting any audit.” To date, however, even as the audit is already underway, neither the Secretary of State’s Office nor the public have been provided written policies or procedures that will be applied to the audit. Such procedures, including the method of hand-counting and the forms used to collect, report, and aggregate vote totals, are critical to the integrity and reliability of any audit, particularly one of the magnitude being attempted by the Senators’ auditors.

16. The little information that has trickled out about the audit procedures raise more questions than they answer and are cause for concern. Cyber Ninjas’ published statement of work, a true and correct copy of which is attached as Exhibit 5, the only published written document I am aware explaining anything about how they will conduct their audit, lacks details about how they are hiring or training those who will participate in the audit, specific procedures for conducting the audit, ensuring only tested and certified voting equipment is used for the counting process, or ensuring ballots and voting equipment remain adequately secured at all times.

17. For example, the EPM requires that ballot counting be done in bipartisan teams. At a press conference, Cyber Ninjas’ CEO revealed he did not know whether the teams of three counters who would count each ballot would be bipartisan as required by law. A true and correct copy of a media report discussing the press conference is attached as Exhibit 6.

**E. Failure to Provide Observer Access**

18. The Secretary’s March 3rd Letter requested the Senators permit designees of the Secretary, Governor, Attorney General, Maricopa County, and political parties to observe every step of any audit and any handling, inspection, or counting of ballots. The letter also called for the greatest practicable level of public observation, which includes

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media access, just as election officials are required to permit observation of logic and accuracy testing of election equipment, polling places, ballot processing, ballot tabulation, and post-election audits.

19. When the Maricopa County Elections Department announced on April 20, 2021 that it would begin transferring custody of voting equipment and ballots to the **Senate at the Veteran’s Memorial Coliseum on April 21 and 22, and media reported the hand count was scheduled to start on April 23, we still had received no information on whether and how the Secretary of State’s Office would be permitted to send observers.** Further, those in charge of the audit gave conflicting information regarding whether and how the media would be permitted to observe. Attached hereto as Exhibit 7 is a true and correct copy of media reports regarding the often changing and contradictory information provided about whether and how observers were allowed.

20. Therefore, on Wednesday, April 21, 2021, I sent an email to Ken Bennett, copying President Fann and the auditors’ [arizonaaudit@gmail.com](mailto:arizonaaudit@gmail.com) account, requesting **that they allow the Secretary of State’s Office and national nonpartisan organizations to designate experts in post-election audits, election administration, and election technology to be observers throughout the duration of the audit process. I specified that these experts would not interfere with or provide advice or comment on the audit but would simply observe. I also urged Mr. Bennett to ease the reported restrictions on media observers so there could be effective reporting on this matter of great public interest. While the auditors were allowing Maricopa County voters to “apply” to observe the audit in six-hour shifts, and at times stated they would allow members of the media to observe—albeit under unduly restrictive conditions, most voters, and even reporters, are likely not experts in post-election audits, election administration, or election technology and would not be equipped to spot serious, but non-obvious, problems or highlight procedures that are commendable. Therefore, we believed it was imperative that the Secretary of State’s Office be permitted to designate** subject matter



1 experts as observers. Attached hereto as Exhibit 8 is a true and correct copy of the April  
2 21, 2021 email I sent to Mr. Bennett and President Fann regarding observer access.

3 21. Later that day, I spoke with Mr. Bennett via telephone regarding the  
4 requests in my email. He thanked me for sending the request, indicated he was open to  
5 the suggestions and appreciated them, and asked me to forward the email to a new email  
6 address he was now using as the audit liaison, [info@arizonaaudit.com](mailto:info@arizonaaudit.com), and to also  
7 attach a copy of the Secretary's March 3rd Letter. He stated that he was meeting with  
8 President Fann and the contracted auditors later that evening to decide on what they  
9 would do about observers and would get back to me as soon as he could. Shortly after  
10 ending the call, I forwarded the email and attached the March 3rd Letter as Mr. Bennett  
11 requested. Attached hereto as Exhibit 9 is a true and correct copy of the April 21, 2021  
12 email I sent to Mr. Bennett, forwarding my earlier email and attaching the March 3rd  
13 Letter.

14 22. Based on my telephone conversation with Mr. Bennett and his expressed  
15 openness to my request that the Secretary be permitted to designate expert observers, I  
16 coordinated with Jennifer Morrell, partner at the Elections Group and a national expert  
17 in election administration and post-election audits, and Ryan Macias, owner of RSM  
18 Election Solutions and a national expert in election technology, security, and policy, to  
19 be on the ground in Arizona to observe the audit. They made travel arrangements and  
20 arrived in Arizona in time to begin observing at the anticipated start of the audit on  
21 Friday, April 23, 2021.

22 23. I did not hear back from Mr. Bennett on April 21. Therefore, at 9:50 a.m.  
23 on Thursday, April 22, 2021, I sent Mr. Bennett a follow-up email, requesting a  
24 response as soon as possible. Attached hereto as Exhibit 10 is a true and correct copy of  
25 the April 22, 2021 email I sent to Mr. Bennett. After sending this email, I attempted to  
26 reach Mr. Bennett via telephone, but he did not answer and I was unable to leave a  
27 message because his voicemail inbox was full.  
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24. To date, despite multiple requests, and despite our arrangements for experts to be on the ground, Mr. Bennett, President Fann, and the contracted auditors have not permitted the Secretary of State to designate and send expert observers to observe the audit and have not otherwise provided clear or consistent policies or procedures regarding observer access to the audit.

**F. Failure to Ensure Physical Security of Voting Equipment and Ballots**

25. The Secretary’s March 3rd Letter urged the Senators and their auditors to “[d]evelop and implement procedures to ensure the physical security of the ballots and physical, data, and cyber security of election equipment, so that they are not tampered with, stolen, or otherwise mishandled or compromised.” No unauthorized persons should be able to access voting equipment or ballots, and even authorized personnel should only be able to access equipment and ballots pursuant to strict chain of custody procedures, with thorough documentation, including logs and sign-in sheets.

Accordingly, Chapter 4, Section III of the EPM, on pages 95 to 96, spells out detailed procedures for ensuring the physical security of voting systems, and Chapter 8, Section V(E) spells out detailed procedures for ensuring the physical security of official ballots.

26. Recent reports indicate that the Senators and their auditors have failed to properly secure the Coliseum—a large, porous public venue—and the election equipment and ballots therein, resulting in unauthorized and unmonitored access to both. For example, on the evening of Thursday, April 24, 2021, we learned that Morgan Loew, an investigative reporter with 3TV/CBS 5, and his reporting team were able to enter the Coliseum four days in a row, and access its hallways, staircases, and the main floor and get up to the actual ballots and county computer equipment. Similarly, Garrett Archer, a data analyst with ABC15, posted on April 22, 2021 that he and others were able to enter the Coliseum because “[n]o one was naming the metal detectors, so we just walked in.” Attached hereto as Exhibit 11 are true and correct copies of these media reports, and video footage of the security lapses allowing unauthorized access can be

1 viewed at [https://www.azfamily.com/news/investigations/cbs\\_5\\_investigates/security-](https://www.azfamily.com/news/investigations/cbs_5_investigates/security-lapses-plague-arizona-senates-election-audit-at-state-fairgrounds/article_b499ace8-a3ed-11eb-8f94-bfc2918c6cc9.html?style=headline_with_preview)  
2 [lapses-plague-arizona-senates-election-audit-at-state-fairgrounds/article\\_b499ace8-](https://www.azfamily.com/news/investigations/cbs_5_investigates/security-lapses-plague-arizona-senates-election-audit-at-state-fairgrounds/article_b499ace8-a3ed-11eb-8f94-bfc2918c6cc9.html?style=headline_with_preview)  
3 [a3ed-11eb-8f94-bfc2918c6cc9.html?style=headline\\_with\\_preview](https://www.azfamily.com/news/investigations/cbs_5_investigates/security-lapses-plague-arizona-senates-election-audit-at-state-fairgrounds/article_b499ace8-a3ed-11eb-8f94-bfc2918c6cc9.html?style=headline_with_preview).

4 27. The failure to ensure the physical security of ballots and election  
5 equipment severely undermine public confidence in the integrity and reliability of the  
6 audit. Further, failure to properly secure the ballots from the 2020 General Elections  
7 risks violating state and federal ballot retention laws, which require retaining voted  
8 ballots for 24 and 22 months, respectively. And, in addition to violating the EPM’s  
9 provisions regarding voting equipment security, the failure to ensure the physical  
10 security of election equipment may require the Secretary of State to initiate  
11 decertification proceedings as to the compromised equipment pursuant A.R.S § 16-442  
12 and Chapter 4, Section I(B) of the EPM.

13 **G. Failure to Restrict Black/Blue Pens in the Counting Area**

14 28. The Secretary’s March 3rd Letter urged the Senators and their auditors to  
15 “[d]evelop and implement procedures to ensure markings on ballots are not altered or  
16 added while in [their] custody,” and specifically noted that “writing instruments [should  
17 be restricted] to only red pens in the room where ballots are handled, inspected, or  
18 counted.” Indeed, Chapter 11, Section I of the EPM, at page 214, specifies that black  
19 and blue pens are prohibited in the designated hand count area.

20 29. Ballot tabulation machines can read only black or blue ink and voters are  
21 specifically instructed to use black or blue ink to mark their ballot. Therefore, the  
22 prohibition of black and blue ink in the hand count area ensures that hand count team  
23 members handling voted ballots cannot, inadvertently or otherwise, alter or add  
24 markings on the ballot that will affect tabulated results or otherwise be mistaken for the  
25 voter’s markings. Failure to strictly implement and enforce this prohibition is hugely  
26 consequential, compromising the integrity of not only the hand count but also the  
27 original ballots themselves.  
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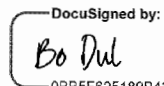
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30. Despite the specific warning in the Secretary’s March 3rd Letter, on Friday, April 23, 2021, we learned that Jen Fifield, a reporter with the Arizona Republic who had applied and was approved for a six-hour observation shift at the Coliseum, observed that the hand counters had blue pens. When she pointed this out to Doug Logan of Cyber Ninjas, LLC, the lead auditor, he initially stated that his understanding was that blue ink was okay before later acknowledging that he was wrong. In response to Ms. Fifield’s flagging of this serious problem, she was prohibited from posting further updates during her observation shift. Attached hereto as Exhibit 12 is a true and correct copy of Jen Fifield’s article regarding blue pens in the counting area.

31. Although Ms. Fifield subsequently reported that the blue pens were later removed from the counting area and replaced with green and red pens, consistent with the requirement in the EPM, Mr. Logan’s ignorance as to this critical but very basic requirement—a requirement that is common knowledge to those with experience in election administration or audits—is cause for grave concern for the security and integrity of the ballots in the Senators and auditors’ custody at the Coliseum and for the reliability of the audit. It also makes it even more imperative that those with real experience and expertise in proper procedures for election audits and administration be allowed to observe this audit.

I declare under penalty of perjury that the foregoing statements are true and correct.

DATED this 25th day of April, 2021.

By   
Sambo (Bo) Dul

# **Exhibit 1**





**KATIE HOBBS**  
SECRETARY OF STATE

## **VOTER INTENT GUIDE FOR ARIZONA ELECTIONS**

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## A. INTRODUCTION

Bipartisan teams of election board workers may need to review ballots for voter intent in the following situations:

- When the county is conducting a post-election hand count audit;
- When a bipartisan team of election board workers is adjudicating damaged ballots or ballots that are otherwise unreadable or read as blank by the electronic tabulation machine;
- When a bipartisan team of election board workers is adjudicating races read as overvotes by the electronic tabulation machine or other markings on the ballot requiring determination of voter intent; or
- When a bipartisan team of election board workers is resolving ballots containing votes for write-in candidates.

This guide outlines specific scenarios to assist county elections staff and election board workers in determining voter intent in a consistent manner, and in accordance with applicable statutes and the Elections Procedures Manual.

## B. TARGET AREA

The “target area” is the oval or square adjacent to a candidate’s name or ballot response that the voter is instructed to fill in to indicate their selection for each race. Examples of the target area are circled in red below.

JUDGE OF THE SUPERIOR COURT  
DIVISION I  
VOTE FOR NOT MORE THAN 1

REED, TED

Write-in

QUESTION 1

Shall Tempe be authorized to issue and sell \$134,000,000 general obligation, water and sewer revenue, or tax secured revenue bonds for water and sewer improvements?

BOND APPROVAL, YES

BOND APPROVAL, NO

**General Rule:** Any marks made within the target area should be counted as a valid vote as long as the voter did not select more candidates or ballot measure responses than the maximum number allowed and none of the exceptions below apply.

**Exceptions:** Marks made inside the target area should not be counted as a valid vote if one or more of the following exceptions apply.

1. Obvious stray marks
2. Hesitation marks
3. Parts of written notes
4. Corrected votes or overvotes (*see* Section D)

Marks *outside* of the target area should be counted only if they form a pattern of similar marks as outlined in Section C, or if they qualify as written instructions as explained in Section E.

# 1. VALID MARKINGS INSIDE TARGET AREA

## → EXAMPLE 1: VALID TARGET AREA MARKINGS

Each of the examples below show markings that are valid votes because they are within the target area and do not fall under one of the specified exceptions.

<p><b>STATE TREASURER</b> VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> MANOIL, MARK (DEM)</p> <p><input checked="" type="radio"/> YEE, KIMBERLY (REP)</p> <p><input type="radio"/> _____ Write-in</p>	<p><b>ATTORNEY GENERAL</b> VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> CONTRERAS, JANUARY (DEM)</p> <p><input checked="" type="radio"/> BRNOVICH, MARK (REP)</p> <p><input type="radio"/> _____ Write-in</p>
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<p><b>U.S. REPRESENTATIVE IN CONGRESS</b> DISTRICT 1 VOTE FOR NOT MORE THAN 1</p> <p><input checked="" type="radio"/> O'HALLERAN, TOM (DEM)</p> <p><input type="radio"/> ROGERS, WENDY (REP)</p> <p><input type="radio"/> _____ Write-in</p>	<p><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION I VOTE FOR NOT MORE THAN 1</p> <p><input checked="" type="radio"/> REED, TED</p> <p><input type="radio"/> _____ Write-in</p>
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## → EXAMPLE 2: INCOMPLETE MARKS THAT ARE VALID VOTES

An incomplete or defective mark in the target area should be counted as a valid vote as long as no other cross mark or comment appears indicating an intent to vote for a different or no candidate/response within the same contest. The example below is a valid vote.

<p><b>GOVERNOR</b> VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> GARCIA, DAVID (DEM)</p> <p><input checked="" type="radio"/> DUCEY, DOUG (REP)</p> <p><input type="radio"/> TORRES, ANGEL (GRN)</p> <p><input type="radio"/> _____ Write-in</p>
---

**→ EXAMPLE 3: VALID TARGET AREA MARKINGS INDICATIVE OF VOTER FATIGUE**

In the example below, the marks made on the ballot get smaller with each race, indicative of “voter fatigue.” All marks are in the target area and should be counted as valid votes.

<p style="text-align: center;"><b>STATE TREASURER</b> VOTE FOR NOT MORE THAN 1</p> <p><input checked="" type="radio"/> MANOIL, MARK (DEM)</p> <p><input type="radio"/> YEE, KIMBERLY (REP)</p> <p><input type="radio"/> Write-in</p>	<p style="text-align: center;"><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION II VOTE FOR NOT MORE THAN 1</p> <p><input checked="" type="radio"/> SLAYTON, DAN</p> <p><input type="radio"/> Write-in</p>
<p style="text-align: center;"><b>SUPERINTENDENT OF PUBLIC INSTRUCTION</b> VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> HOFFMAN, KATHY (DEM)</p> <p><input checked="" type="radio"/> RIGGS, FRANK (REP)</p> <p><input type="radio"/> Write-in</p>	<p style="text-align: center;"><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION IV VOTE FOR NOT MORE THAN 1</p> <p><input checked="" type="radio"/> FRIDLUND-HORNE, ELAINE</p> <p><input type="radio"/> Write-in</p>

**2. EXCEPTION: OBVIOUS STRAY MARKS**

**→ EXAMPLE 4: OBVIOUS STRAY MARKS OUTSIDE TARGET AREA**

In the example below, even though the mark partially extends into the target area Tom O’Halleran, it is primarily concentrated outside the target area, and therefore should be considered a stray mark and not a valid vote. This race should be counted as a valid vote for Wendy Rogers and should not be adjudicated as an overvote.

<p><b>U.S. REPRESENTATIVE IN CONGRESS</b> DISTRICT 1 VOTE FOR NOT MORE THAN 1</p>
<p><input type="radio"/> O'HALLERAN, TOM (DEM)</p> <p><input checked="" type="radio"/> ROGERS, WENDY (REP)</p> <p><input type="radio"/> Write-in</p>

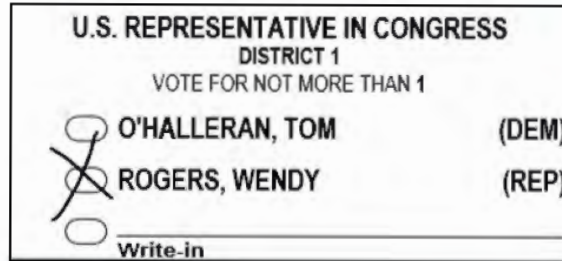
**→ EXAMPLE 5: OBVIOUS STRAY MARKS THROUGH TARGET AREA**

The example below shows a stray mark that should not be counted as a valid vote, even though the mark extends through one candidate’s target area. Note that to determine whether a mark in a target area is a stray mark, it may be necessary to review the race for consistent patterns, discussed further in Section C.

<p><b>U.S. REPRESENTATIVE IN CONGRESS</b> DISTRICT 1 VOTE FOR NOT MORE THAN 1</p>
<p><input type="radio"/> O'HALLERAN, TOM (DEM)</p> <p><input type="radio"/> ROGERS, WENDY (REP)</p> <p><input type="radio"/> Write-in</p>

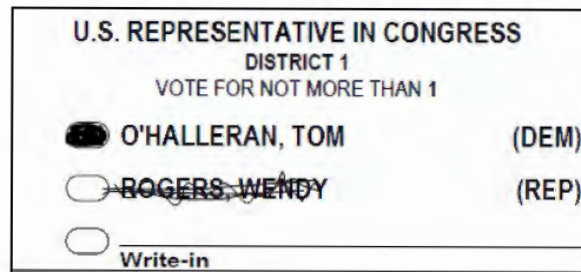
**→ EXAMPLE 6: STRAY MARKS EXTENDING INTO ADJACENT TARGET AREA**

In the example below, the mark extends outside one candidate's target area into another target area. However, because the mark clearly indicates a preference for Wendy Rogers and is concentrated in that candidate's target area, it should be counted as a valid vote for Wendy Rogers.



**→ EXAMPLE 7: CANDIDATE'S NAME STRICKEN**

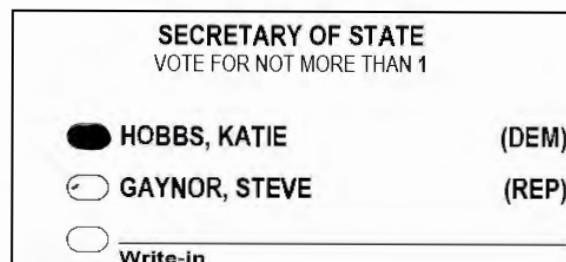
In this example, the voter has stricken the name of candidate Wendy Rogers. Part of this mark extends into that candidate's target area, but it is considered a stray mark. This race should be counted as a valid vote for Tom O'Halleran and should not be adjudicated as an overvote.



**3. EXCEPTION: HESITATION MARKS**

**→ EXAMPLE 8: HESITATION MARKS**

In the example below, there are marks in both candidates' target areas, but the mark in the target area for Steve Gaynor is far smaller than for Katie Hobbs. This smaller mark appears to be a hesitation mark and should be disregarded. This race should be counted as a valid vote for Katie Hobbs and should not be adjudicated as an overvote.



## 4. EXCEPTION: PARTS OF WRITTEN NOTES

### → EXAMPLE 9: WRITTEN NOTES TOUCHING TARGET AREA

In the examples below, although the written notes extend into a candidate's target area, it is clear that the voter's intent is not to cast a valid vote for any candidate. Neither should be counted as a valid vote for any candidate.

U.S. SENATOR VOTE FOR NOT MORE THAN 1	
<input type="radio"/> SINEMA KYRSTEN	(DEM)
<input type="radio"/> MCSADY, MARTHA	(REP)
<input type="radio"/> GREEN, ANGELA	(GRN)
<input type="radio"/> _____	Write-in

ALL BAD!!!

STATE MINE INSPECTOR VOTE FOR NOT MORE THAN 1	
<input type="radio"/> PIERCE, WILLIAM "BILL"	(DEM)
<input checked="" type="radio"/> HART, JOE	(REP)
<input type="radio"/> _____	Write-in

### → EXAMPLE 10: WRITTEN INSTRUCTIONS WITHIN TARGET AREA

In the example below, however, the voter provided clear instructions in the target area that dictate the vote be counted for Joe Hart. For further guidance on written instructions, please see Section E.

STATE MINE INSPECTOR VOTE FOR NOT MORE THAN 1	
<input checked="" type="radio"/> NO PIERCE, WILLIAM "BILL"	(DEM)
<input checked="" type="radio"/> YES HART, JOE	(REP)
<input type="radio"/> _____	Write-in



## C. PATTERN OF SIMILAR MARKS

**General Rule:** Marks made outside of the target area should be counted as valid votes if the voter uses a consistent pattern or method of marking throughout the ballot.

To be valid, the pattern or method of marking outside the target area must be consistent for all votes throughout the ballot. *See* EPM Ch. 11 § IX(5). If the voter uses similar marks throughout but places some outside the target area and some inside the target area, only the marks inside the target area should be counted as valid votes.

### → EXAMPLE 11: CONSISTENT PATTERN OF MARKS OUTSIDE TARGET AREA

In each of the four examples below, the voter formed a pattern of similar marks outside the target area. Although the marks are outside the target area, these are all valid votes because the voter used a consistent pattern of marking.

<p>JUDGE OF THE SUPERIOR COURT DIVISION I VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> REED, TED <del>X</del></p> <p><input type="radio"/> Write-in</p>	<p>JUDGE OF THE SUPERIOR COURT DIVISION I VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> <u>REED, TED</u></p> <p><input type="radio"/> Write-in</p>
<p>JUDGE OF THE SUPERIOR COURT DIVISION II VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> SLAYTON, DAN <del>X</del></p> <p><input type="radio"/> Write-in</p>	<p>JUDGE OF THE SUPERIOR COURT DIVISION II VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> <u>SLAYTON, DAN</u></p> <p><input type="radio"/> Write-in</p>
<p>JUDGE OF THE SUPERIOR COURT DIVISION IV VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> FRIDLUND-HORNE, ELAINE <del>X</del></p> <p><input type="radio"/> Write-in</p>	<p>JUDGE OF THE SUPERIOR COURT DIVISION IV VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> <u>FRIDLUND-HORNE, ELAINE</u></p> <p><input type="radio"/> Write-in</p>
<p>JUDGE OF THE SUPERIOR COURT DIVISION I VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> REED, TED ✓</p> <p><input type="radio"/> Write-in</p>	<p>JUDGE OF THE SUPERIOR COURT DIVISION I VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> <u>REED, TED</u></p> <p><input type="radio"/> Write-in</p>
<p>JUDGE OF THE SUPERIOR COURT DIVISION II VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> SLAYTON, DAN ✓</p> <p><input type="radio"/> Write-in</p>	<p>JUDGE OF THE SUPERIOR COURT DIVISION II VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> <u>SLAYTON, DAN</u></p> <p><input type="radio"/> Write-in</p>
<p>JUDGE OF THE SUPERIOR COURT DIVISION IV VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> FRIDLUND-HORNE, ELAINE ✓</p> <p><input type="radio"/> Write-in</p>	<p>JUDGE OF THE SUPERIOR COURT DIVISION IV VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> <u>FRIDLUND-HORNE, ELAINE</u></p> <p><input type="radio"/> Write-in</p>

**→ EXAMPLE 12: CONSISTENT PATTERN OF MARKS, SOME WITHIN TARGET AREA AND SOME OUTSIDE TARGET AREA**

In the below examples, the voter used similar marks throughout, but placed some outside the target area and some inside the target area. Only the marks inside or immediately adjacent to the target area should be counted as valid votes. In the example on the left below, only the votes for Ted Reed and Dan Slayton should be counted as valid votes. In the example on the right below, only the vote for Ted Reed should be counted as a valid vote.

<p><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION I VOTE FOR NOT MORE THAN 1</p> <p><input checked="" type="checkbox"/> REED, TED</p> <p><input type="checkbox"/> Write-in</p> <hr/> <p><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION II VOTE FOR NOT MORE THAN 1</p> <p><input checked="" type="checkbox"/> SLAYTON, DAN</p> <p><input type="checkbox"/> Write-in</p> <hr/> <p><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION IV VOTE FOR NOT MORE THAN 1</p> <p><input type="checkbox"/> FRIDLUND-HORNE, ELAINE <input checked="" type="checkbox"/></p> <p><input type="checkbox"/> Write-in</p>	<p><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION I VOTE FOR NOT MORE THAN 1</p> <p><input checked="" type="checkbox"/> REED, TED</p> <p><input type="checkbox"/> Write-in</p> <hr/> <p><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION II VOTE FOR NOT MORE THAN 1</p> <p><input type="checkbox"/> SLAYTON, DAN <input checked="" type="checkbox"/></p> <p><input type="checkbox"/> Write-in</p> <hr/> <p><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION IV VOTE FOR NOT MORE THAN 1</p> <p><input type="checkbox"/> FRIDLUND-HORNE, ELAINE <input checked="" type="checkbox"/></p> <p><input type="checkbox"/> Write-in</p>
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**→ EXAMPLE 13: INVALID VOTES DUE TO INCONSISTENT MARKS OUTSIDE TARGET AREA**

In the below example, the voter marked outside the target area for all races, but used an inconsistent pattern of marking. These votes should not be counted.

<p><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION I VOTE FOR NOT MORE THAN 1</p> <p><input type="checkbox"/> REED, TED</p> <p><input type="checkbox"/> Write-in</p> <hr/> <p><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION II VOTE FOR NOT MORE THAN 1</p> <p><input type="checkbox"/> SLAYTON, DAN <input checked="" type="checkbox"/></p> <p><input type="checkbox"/> Write-in</p> <hr/> <p><b>JUDGE OF THE SUPERIOR COURT</b> DIVISION IV VOTE FOR NOT MORE THAN 1</p> <p><input type="checkbox"/> FRIDLUND-HORNE, ELAINE <input checked="" type="checkbox"/></p> <p><input type="checkbox"/> Write-in</p>
--

**→ EXAMPLE 14: INCONSISTENT TYPE OF MARKS INSIDE AND OUTSIDE TARGET AREA**

In the below example, the voter used inconsistent types of marks inside and outside the target area, so the exception for patterns of similar marks does not apply. Only the vote for Ted Reed should count as a valid vote because it is marked in the target area.

<p>JUDGE OF THE SUPERIOR COURT DIVISION I VOTE FOR NOT MORE THAN 1</p> <p><input checked="" type="radio"/> REED, TED</p> <p><input type="radio"/> Write-in</p>	
<p>JUDGE OF THE SUPERIOR COURT DIVISION II VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> SLAYTON, DAN</p> <p><input type="radio"/> Write-in</p>	
<p>JUDGE OF THE SUPERIOR COURT DIVISION IV VOTE FOR NOT MORE THAN 1</p> <p><input type="radio"/> FRIDLUND-HORNE, ELAINE X</p> <p><input type="radio"/> Write-in</p>	

**→ EXAMPLE 15: MARKS IN “VOTE FOR TWO OR MORE” RACES**

If the voter can choose more than one candidate in a race, all marks must follow the same pattern or method. If the voter uses inconsistent marks and marks more choices than permitted, all marks for that race will be invalidated, except where a voter uses an inconsistent mark to clearly indicate the voter’s intent *not* to vote for a candidate or one type of mark used is consistent with how the voter marked their choices on the rest of the ballot (see Section D for more information on Corrected Votes and Section E for more information on Written Instructions).

In the example below, the voter placed all marks within the target area, but used inconsistent marks. Because the voter’s intent cannot be determined due to the inconsistent marks in this race, none of the marks should be counted as valid votes unless the voter marked the rest of their ballot using an “X” in the target area or by completely filling in the target area.

- If the voter marked their choices consistently throughout the rest of the ballot by filling in the target area bubble, this should be counted as a valid vote for Rodney Glassman.
- Similarly, if the voter marked their choices consistently throughout the rest of the ballot by writing an “X” in the target area bubble, the vote should be counted as valid votes for Sandra Kennedy and Justin Olson.

<p>CORPORATION COMMISSIONER VOTE FOR NOT MORE THAN 2</p>		
<input checked="" type="checkbox"/>	KENNEDY, SANDRA	(DEM)
<input type="checkbox"/>	SEARS, KIANA MARIA	(DEM)
<input checked="" type="checkbox"/>	GLASSMAN, RODNEY	(REP)
<input checked="" type="checkbox"/>	OLSON, JUSTIN	(REP)
<input type="checkbox"/>	Write-in	
<input type="checkbox"/>	Write-in	

**→ EXAMPLE 16: CORRECTION MARKS IN “VOTE FOR TWO OR MORE” RACES**

But in the example below, while the voter used inconsistent marks, the voter’s intent to correct their vote is clear. Thus, the votes for Sandra Kennedy and Rodney Glassman should be counted as valid votes because the voter has clearly corrected the vote for Justin Olson and indicated their intent not to vote for that candidate.

CORPORATION COMMISSIONER  
VOTE FOR NOT MORE THAN 2

<input checked="" type="radio"/>	KENNEDY, SANDRA	(DEM)
<input type="radio"/>	SEARS, KIANA MARIA	(DEM)
<input checked="" type="radio"/>	GLASSMAN, RODNEY	(REP)
<input checked="" type="checkbox"/>	<del>OLSON, JUSTIN</del>	<del>(REP)</del>
<input type="radio"/>	_____	Write-in
<input type="radio"/>	_____	Write-in

**D. OVERVOTES AND CORRECTED VOTES**

An overvote occurs where a voter marks more options than the maximum permitted for a race or ballot measure.

**General Rule:** No votes for an overvoted race or ballot measure should be counted, unless the voter has provided a correction, written instructions, or other clear indication of the voter’s intent. *See EPM Ch. 11 §§ IX(1),(4).*

**→ EXAMPLE 17: OVERVOTED RACE WHERE VOTER HAS NOT CLEARLY INDICATED A SINGLE CHOICE**

In the example below, the voter marked in the target areas for two candidates in a race that only allows for one selection and has not corrected or otherwise clearly indicated a single choice. Neither of these votes is valid.

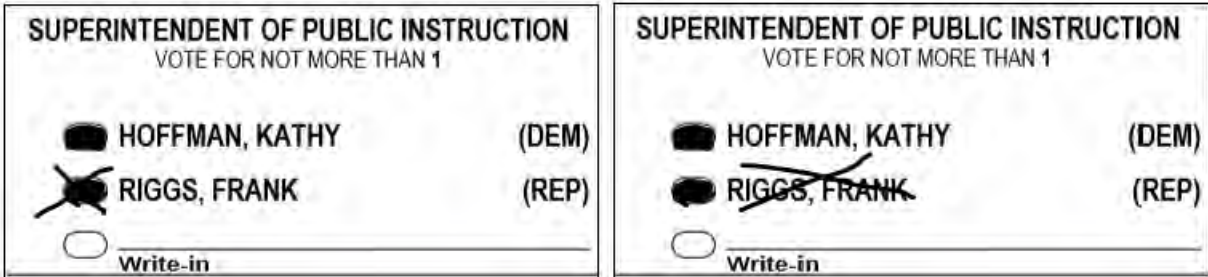
SUPERINTENDENT OF PUBLIC INSTRUCTION  
VOTE FOR NOT MORE THAN 1

<input checked="" type="radio"/>	HOFFMAN, KATHY	(DEM)
<input checked="" type="radio"/>	RIGGS, FRANK	(REP)
<input type="radio"/>	_____	Write-in



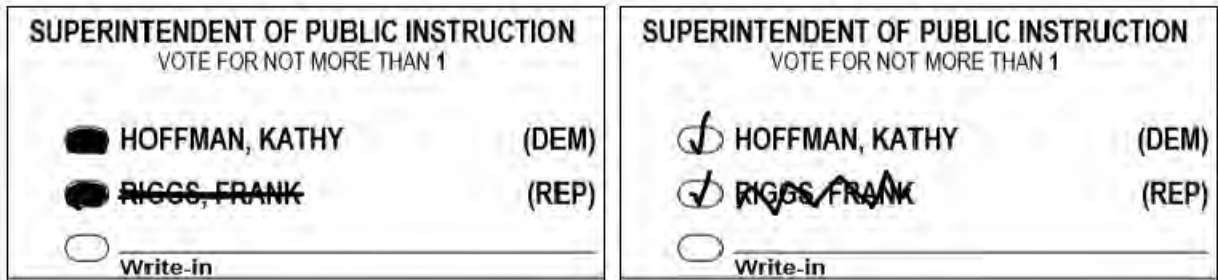
**→ EXAMPLE 18: OVERVOTED RACE WHERE VOTER CORRECTED BY MARKING AN “X” OVER ONE CHOICE**

In the examples below, the voter marked in the target areas for two candidates in a race that only allows for one selection. However, the voter attempted to clarify their vote by placing an “X” over the choice the voter did not wish to select. Because the correction clearly indicates the voter’s intent, these are both valid votes for Kathy Hoffman.



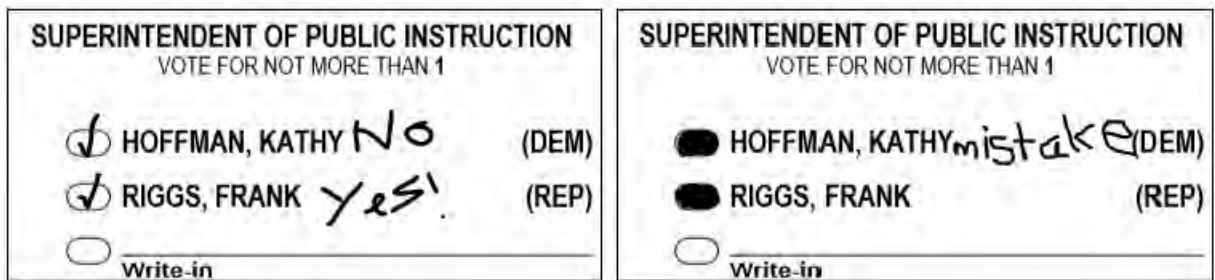
**→ EXAMPLE 19: OVERVOTED RACE WHERE VOTER CORRECTED BY STRIKING THROUGH ONE CHOICE**

In the examples below, the voter marked in the target areas for two candidates in a race that only allows for one selection. However, the voter attempted to clarify their vote by striking or scribbling through the choice the voter did not wish to select. Because the correction clearly indicates the voter’s intent, these are both valid votes for Kathy Hoffman.



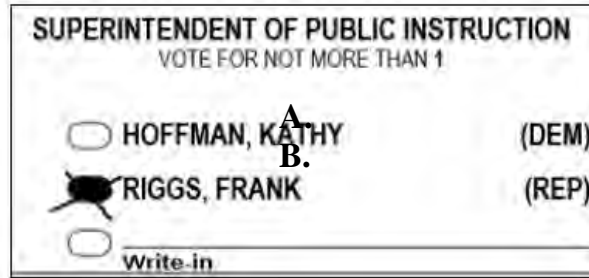
**→ EXAMPLE 20: OVERVOTED RACE WHERE VOTER CORRECTED USING WRITTEN INSTRUCTIONS**

In the examples below, the voter marked in the target areas for two candidates in a race that only allows for one choice, but the voter used written instructions to clearly indicate their intent. Therefore, these should count as valid votes for Frank Riggs. For additional explanations of Written Instructions, see Section E.



**→ EXAMPLE 21: FILLED-IN TARGET AREA TO CORRECT AN INCOMPLETE OR INCORRECT MARK**

In the below example, it appears that the voter may have marked their selection using an “X.” The voter also filled in the entire target area, attempting to clearly indicate their vote. Because there is only one target area marked and no other markings for the race, the voter’s intent is clear and this should be counted as a valid vote for Frank Riggs.

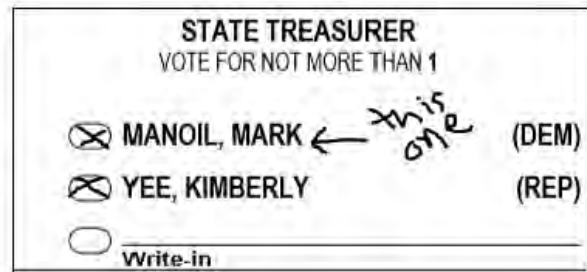
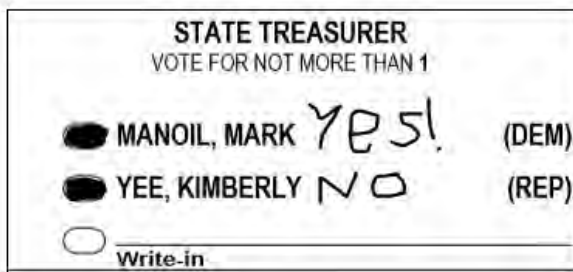


**E. WRITTEN INSTRUCTIONS**

**General Rule:** If a voter has attempted to vote or correct a vote by providing written instructions regarding their intent, the vote should be counted as the voter instructed. Written instructions may include words, arrows, circles, or lines.

**→ EXAMPLE 22: VALID WRITTEN INSTRUCTIONS USING WORDS**

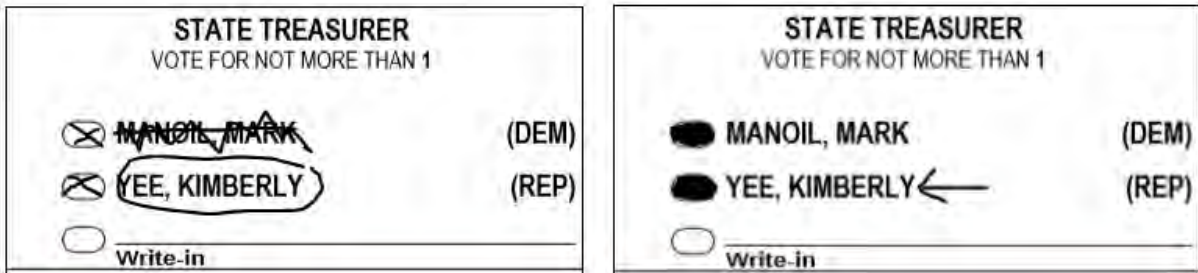
In the examples below, although the voter has filled in the target area for more than one candidate, the written instructions clearly indicate the voter’s intent. These should be counted as valid votes for Mark Manoil.





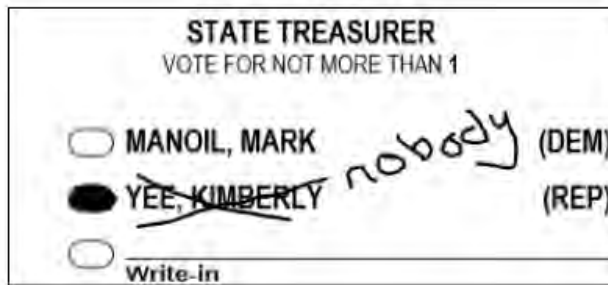
**→ EXAMPLE 23: VALID WRITTEN INSTRUCTIONS WITHOUT WORDS**

In the examples below, although the voter marked in the target area for more than one candidate, the voter also used non-verbal written instructions to clearly instruct that they intended to vote for Kimberly Yee, not Mark Manoil. These should be counted as valid votes for Kimberly Yee.



**→ EXAMPLE 24: VALID WRITTEN INSTRUCTIONS CANCELLING A VOTE**

In the example below, the voter selected a candidate, but also drew an “X” through the selection and provided written instructions that the voter intended to vote for “nobody.” Similar acceptable words cancelling a vote include “none” and “neither.” This is considered an undervote and should not count as a vote for any candidate.



**F. WRITE-IN CANDIDATES**

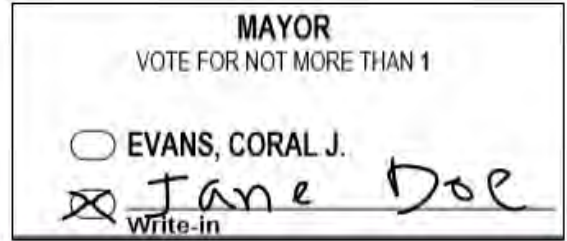
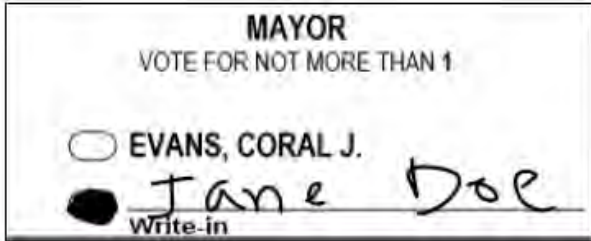
Under Arizona law, a write-in vote is counted only if the voter properly marks the target area *and* writes in the name of a qualified write-in candidate. Abbreviations, misspellings, and minor variations in the write-in name should be disregarded as long as the voter’s intent can be determined.

For a federal write-in absentee ballot (FWAB), which does not have target areas, a voter may cast a valid write-in vote by simply writing in the name of a candidate or, for a partisan race in a general election, by writing in the name of a political party (in which case the ballot must be counted for the candidate of that political party).

See EPM Ch. 10 § II(G)(1); A.R.S. § 16-448; A.R.S. § 16-543.02(C); A.R.S. § 16-645(A).

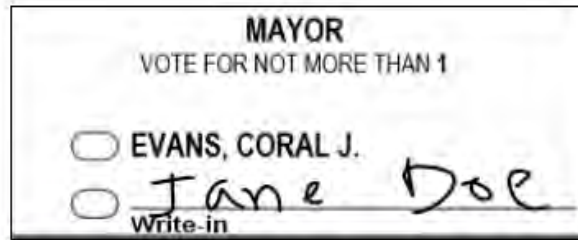
**→ EXAMPLE 25: VALID WRITE-IN VOTE**

The examples below show a properly cast vote for a write-in candidate, assuming Jane Doe is a qualified write-in candidate for that race. The voter has both marked the target area for a write-in candidate and written in Jane Doe's name in the provided area.



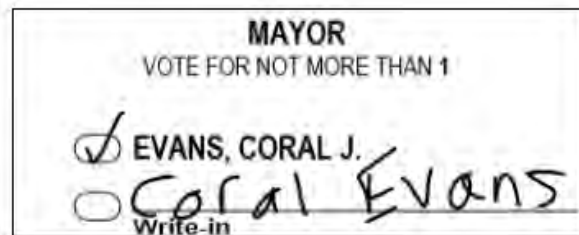
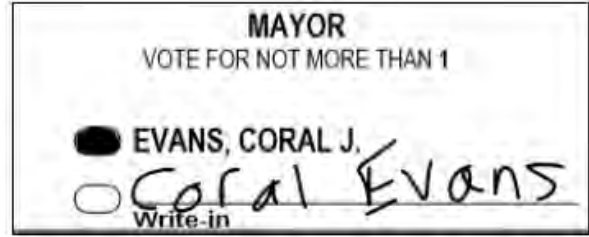
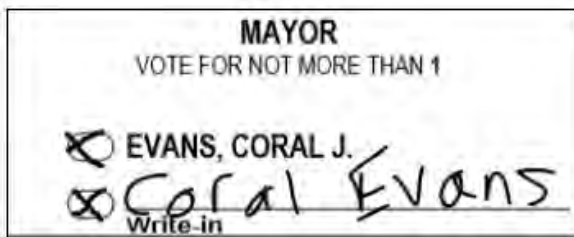
**→ EXAMPLE 26: INVALID WRITE-IN VOTE (NON-FWAB)**

In the example below, although the voter wrote in a write-in candidate in the space provided, the voter failed to mark the target area. Thus, this vote is not valid. (As explained above, FWABs do not have target areas, so valid write-in votes on a FWAB need only the written name of a candidate or political party.)



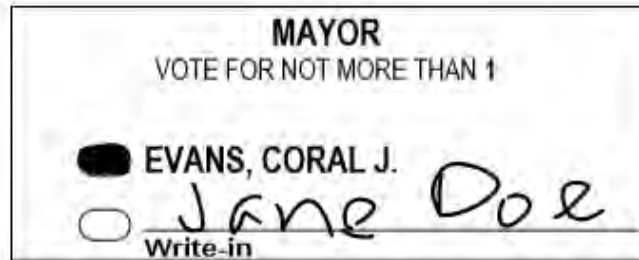
**→ EXAMPLE 27: WRITE-IN OF CANDIDATE ALREADY ON THE BALLOT**

In the examples below, the voter wrote in the name of a candidate who is also printed on the ballot. As long as one or both corresponding target areas is marked, it should be counted as a valid vote for the candidate and should not be adjudicated as an overvote.



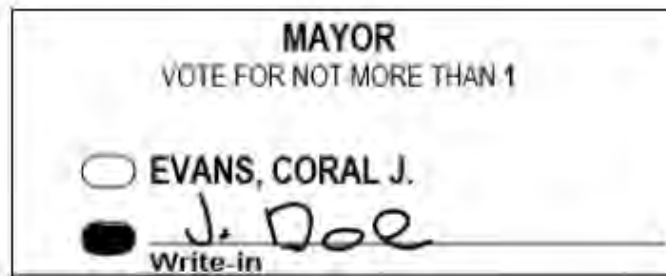
**→ EXAMPLE 28: PRINTED CANDIDATE TARGET AREA MARKED, WRITE-IN CANDIDATE WRITTEN IN BUT UNMARKED**

In the example below, the voter properly marked the target area for a printed candidate on the ballot. The voter also wrote in a different name in the write-in area, but did not mark the target area for the write-in. This is a valid vote for Coral Evans and should not be adjudicated as an overvote, regardless of whether the name written in is a qualified write-in candidate.



**→ EXAMPLE 29: VALID WRITE-IN VOTE WITH MINOR VARIATIONS IN CANDIDATE'S NAME**

In the example below, the voter properly marked the target area for a write-in candidate and wrote in "J. Doe." If Jane Doe is a qualified write-in candidate (and there are no other qualified candidates with the last name Doe and first name beginning with the letter J), this should be counted as a valid write-in vote for Jane Doe. The same would be true if the voter had written in "Jane D.," "Jayne Doe," or other similar minor variation on the name Jane Doe, as long as the voter's intent can be determined.



**→ EXAMPLE 30: VALID WRITE-IN VOTE FOR PRESIDENTIAL ELECTORS**

A write-in vote for president and vice president is valid so long as it includes a reasonably correct spelling of the last name of a qualified write-in candidate for president or vice president and a mark in the corresponding target area. In the examples below, assuming Jane Doe and Joe Lopez are qualified write-in candidates and running mates for president and vice president, the vote should be counted as a valid write-in vote for presidential electors for Doe/Lopez.

PRESIDENTIAL ELECTORS		
(VOTE FOR NOT MORE THAN 1)		
BOWYER, TYLER COTTLE, NANCY HOFFMAN, JAKE KERN, ANTHONY T LAMON, JAMES MONTGOMERY, ROBERT	MOORHEAD, SAMUEL I PELLEGRINO, LORRAINE B. SAFSTEN, GREG WARD, KELLI WARD, MICHAEL	<b>TRUMP</b> <input type="radio"/> <b>PENCE</b> <input type="radio"/> (REP)
GALLARDO, STEVE HEREDIA, LUIS ALBERTO JACKSON, CONSTANCE KENNEDY, SANDRA D. LEWIS, STEPHEN ROE MCCLAUGHLIN, JAMES	NEZ, JONATHAN NORRIS, NED ROMERO, REGINA ROTPELLINI, FELECIA YAMASHITA, FRED	<b>BIDEN</b> <input type="radio"/> <b>HARRIS</b> <input type="radio"/> (DEM)
BENJAMIN, TIMOTHY BLITZ, HOWARD DANIELS, JEFFERY T DANIELS FLORES, ALEJANDRO HESS, BARRY KIELSKY, MICHAEL	MARKS, DOUG PEPITON II, ROBERT A. SLAYTON, BRANDON STEWART, SCOTT WINDER, JONATHAN	<b>JORGENSEN</b> <input type="radio"/> <b>COHEN</b> <input type="radio"/> (LBT)
Write-In Candidate		<b>J. Doe</b> <input checked="" type="radio"/>

PRESIDENTIAL ELECTORS		
(VOTE FOR NOT MORE THAN 1)		
BOWYER, TYLER COTTLE, NANCY HOFFMAN, JAKE KERN, ANTHONY T LAMON, JAMES MONTGOMERY, ROBERT	MOORHEAD, SAMUEL I PELLEGRINO, LORRAINE B. SAFSTEN, GREG WARD, KELLI WARD, MICHAEL	<b>TRUMP</b> <input type="radio"/> <b>PENCE</b> <input type="radio"/> (REP)
GALLARDO, STEVE HEREDIA, LUIS ALBERTO JACKSON, CONSTANCE KENNEDY, SANDRA D. LEWIS, STEPHEN ROE MCCLAUGHLIN, JAMES	NEZ, JONATHAN NORRIS, NED ROMERO, REGINA ROTPELLINI, FELECIA YAMASHITA, FRED	<b>BIDEN</b> <input type="radio"/> <b>HARRIS</b> <input type="radio"/> (DEM)
BENJAMIN, TIMOTHY BLITZ, HOWARD DANIELS, JEFFERY T DANIELS FLORES, ALEJANDRO HESS, BARRY KIELSKY, MICHAEL	MARKS, DOUG PEPITON II, ROBERT A. SLAYTON, BRANDON STEWART, SCOTT WINDER, JONATHAN	<b>JORGENSEN</b> <input type="radio"/> <b>COHEN</b> <input type="radio"/> (LBT)
Write-In Candidate		<b>Doe/Lopez</b> <input checked="" type="radio"/>

**→ EXAMPLE 31: WRITING IN THE NAME OF A POLITICAL PARTY IN A PARTISAN GENERAL ELECTION RACE**

In the example below, the voter wrote in the name of a political party in a partisan general election on the FWAB. This should be counted as a valid vote for the candidate of the written-in political party in this race.

<b>Official Backup Ballot</b>	
Federal Write-In Absentee Ballot (FWAB)	
Print clearly in blue or black ink.	
<div style="background-color: red; color: white; padding: 5px;"> <b>Vote by writing the NAME or PARTY of the candidates you choose. To find out about specific federal candidates and races go to <a href="http://FVAP.gov">FVAP.gov</a>.</b> </div>	
<b>Instructions</b>	
<ul style="list-style-type: none"> <li>This ballot can be used to vote for federal offices.</li> <li>DO NOT write your name or any identifying number (SSN, driver's license) on this ballot.</li> <li>Photocopy this page if you require additional room for candidates or ballot initiatives.</li> <li>If you are voting in American Samoa, Guam, Puerto Rico, or the U.S. Virgin Islands, you may vote for Delegate or Resident Commissioner, and in presidential primaries.</li> <li>State laws vary about using the FWAB for other offices like Governor or Mayor. Learn more online at FVAP.gov.</li> </ul>	
<b>Federal offices</b>	
President and Vice President	libertarian

**→ EXAMPLE 32: WRITING IN THE NAME OF A POLITICAL PARTY IN A “VOTE FOR NOT MORE THAN 2” OR MORE RACE**

If the voter can choose more than one candidate in a partisan general election race and the voter wrote in the name of a political party on the FWAB, it should be counted as a valid vote for each candidate printed on the ballot for that race for the written-in political party. In the example below, the vote should be counted as a valid vote for each Democratic candidate qualified to appear on the ballot for State Representative and each Republican candidate qualified to appear on the ballot for Corporation Commissioner.

Non-federal offices		
Office	Candidate name	Political party
State Rep. LD 6		Dem.
Corp. Comm.		Rep.

**G. PATTERN OF PARTISAN VOTING**

Voter intent in any single contest should not be determined based on a pattern of partisan voting in other races on the ballot. For example, the fact that a voter voted exclusively or primarily for candidates of one political party in other races should not be used to conclude that the voter intended to vote for the candidate of that party in a particular race where the voter’s intent is otherwise unclear.

# **Exhibit 2**





# How we secure Arizona's Elections

## Arizona Secretary of State

The Secretary of State's Office has prepared this quick reference guide to help citizens understand how we secure our elections. If you have questions, reach us at [elections@azsos.gov](mailto:elections@azsos.gov) or 1-877-THE-VOTE.

### 1. SECURING THE STATEWIDE VOTER REGISTRATION DATABASE

#### A. System Access

Only authorized state and county elections officials have access to the Arizona Voter Information Database (AVID), and all authorized users are required to log in using multi-factor authentication.

#### B. Environment and Hosting

The Azure Government Cloud offers Distributed Denial of Service (DDoS) protection with Always-On Traffic Monitoring and Real Time threat mitigation. All of AVID is monitored using advanced security threat detection that protects against SQL injections, unusual location access, and brute force attacks. Further, data is protected in transit using TLS encryption as well as being encrypted when the data is at rest.

#### C. Logging and Monitoring of All Database Traffic

Any modification to a Voter record in AVID is logged for auditing purposes.

#### D. Disaster Prevention and Recovery

Security scans of all system assets are performed on a routine basis to ensure any potential vulnerabilities are identified. Data backups occur on a per minute basis and are stored for a set amount of time along with regular weekly and monthly backups which are stored for longer periods.

#### E. Adherence to Industry Standards

AVID was designed to meet the National Institute of Standards and Technology security controls and associated assessment procedures defined in NIST SP 800-53 Revision 4 Recommended Security Controls for Federal Information Systems and Organizations.

#### F. Security Awareness Training for County Users

County users receive security awareness training through the Secretary of State's overall election security training exercises and monthly meetings.

### 2. SECURING THE SECRETARY OF STATE'S ELECTION-RELATED SYSTEMS

#### A. AZSOS Websites

Our websites are behind web application firewalls, which protect us from DDoS and other attacks. We use secure coding techniques and host most of our election-related web content in the cloud to further boost redundancy and availability.

#### B. AZSOS Office Networks

We use industry standard technology to secure our networks, and our security is continually assessed and enhanced with help from the Arizona Department of Administration, the U.S. Department of Homeland Security, and private sector security companies. Our staff is well-trained in cybersecurity awareness and phishing email detection.



### 3. SECURING UOCAVA BALLOT RETURN

Uniformed and Overseas Citizens can transmit their Federal Post Card Applications (FPCA) and Federal Write-In Absentee Ballots (FWAB) to the County Recorders using a secure portal. The login portal is protected from DDoS attacks to ensure availability, and all information transmitted through the portal is encrypted through SSL/TLS.

### 4. SECURING COUNTY ELECTION SYSTEMS AND FACILITIES

#### **A. Decentralization = No Single Point of Access**

Elections in the United States are conducted independently across thousands of local jurisdictions. This means there is no single point of access. In Arizona, elections are conducted independently by each of our 15 counties and overseen by the Secretary of State.

#### **B. Certification Requirements**

All equipment used in Arizona must be certified by both the US Election Assistance Commission (EAC) and the Secretary of State's Equipment Certification Advisory Committee to ensure that it meets both federal and state-specific requirements.

#### **C. Logic and Accuracy Testing**

Before voting starts, county election officials conduct logic and accuracy testing on each piece of voting equipment to make sure that ballots will be marked and counted correctly. In addition, the Secretary of State's Office also performs a logic and accuracy test of a sample of voting and tabulation equipment at each county before each election.

#### **D. Paper Ballots**

In Arizona, no matter how one votes, there will be a piece of paper to visually verify holds the correct vote.

#### **E. Isolated Election Systems**

In Arizona, election systems (computerized systems that program elections and count votes) are air-gapped, meaning that they are never connected to the internet or office networks.

#### **F. Contingency Planning**

If something happens on or near election day, county election officials have back-up plans in place to ensure eligible voters can still cast a ballot and that ballots can still be counted.

#### **G. Post-Election Hand-Count Audits**

County election officials, with participation from the political parties, perform a random, post-election audit on selected races to validate results.

#### **H. Cyber and Physical Fortification**

Federal Help America Vote Act grants are being used in Arizona to bolster county office network and website cybersecurity, as well as physical security improvements at county facilities. Arizona also provides the counties with free security awareness training and phishing testing services.

### 5. SECURING ELECTION PROCESSES

#### **A. Election Officer Certification**

Each election cycle, the Secretary of State's Office trains and prepares new election officers from around Arizona for their upcoming duties in a week-long certification program. Also, every previously certified election officer in Arizona is required to take a re-certification class each election cycle.

#### **B. Chain of Custody and Logging**

By law, election equipment and materials, like ballots, must always be protected, and all access to them must be logged. In many cases, two people must be present when equipment or materials are moved.

### **C. Audit Procedures**

Many auditing procedures are used to make sure vote counts are accurate across the entire election process.

### **D. Filing Election Programs with AZSOS**

The Secretary of State is a repository for the election system programming used by each county, which also serves as a backup in case of deletion or tampering elsewhere.

## **6. SECURING POLITICAL ENTITIES**

It is vitally important that we help candidates and other political entities to protect themselves. The Secretary of State's Office has produced a guide titled "Cybersecurity tips for candidates, parties and PACs" that gives cybersecurity guidance specifically targeted for these entities.

## **7. SECURING THE BALLOT-BY-MAIL PROCESS**

### **A. Tamper Evident Envelopes and Ballot Tracking**

In Arizona, counties utilize tamper evident envelopes for mailed ballots and voters can verify whether their mail ballot has been sent to them and whether it has been accepted by the county after it has been mailed back.

### **B. Security of Ballot Drop-Off Locations and Drop-Boxes**

Ballot drop-off locations and drop-boxes must comply with security requirements and procedures outlined in the Elections Procedures Manual.

### **C. Signature Verification**

Every ballot-by-mail is authenticated through a rigorous signature verification process conducted by trained election officials.

### **D. Criminal Penalties for Misconduct**

Arizona law imposes severe criminal penalties for ballot tampering, vote buying, or discarding someone else's ballot.

## **8. ENSURING EFFECTIVE INCIDENT RESPONSE AND COMMUNICATION**

### **A. Building Strong Relationships**

Fostering trust, collaboration, and communication between the many stakeholders in Arizona's election community helps keep the voting jurisdictions within the state up-to-date, prepared, and cohesive. All 15 counties in Arizona are members of the Election Infrastructure Information Sharing and Analysis Center (EI-ISAC) and receive alerts, guidance, and security services from federal agencies.

### **B. Security Training and Exercises**

The Secretary of State's Office provides cybersecurity and election security training for our county partners, and hosts election security preparedness exercises.

### **C. Incident Response and Communications Plans**

The Secretary of State's Office has worked with representatives from the counties to draft an election incident response plan that can be implemented by every county.

## 9. PROTECTING AGAINST MISINFORMATION AND DISINFORMATION

### A. AZSOS Public Education Campaign

Our largest threat to fair and secure elections today is “information operations”, a term that means presenting misinformation about candidates, issues, election officials, or election processes in an attempt to influence election outcomes or public perception about the accuracy of elections themselves. In 2020, we will be investing time and resources to inform Arizonans to be aware of how to spot and report mis- and disinformation.

### B. Verified Social Media Accounts

We verify our social media accounts, so when the bad actors start spreading misinformation using a copycat account, we can counter that with accurate information using our official account. We’re also working with county election officials to verify their social media accounts.

### C. Social Media Response Plans

The primary goals of a social media plan should be to distribute accessible, correct information, and at the same time challenge and correct misinformation. Having a direct line of communication with social media companies provides efficient processes for removing false or misleading information and replacing it with accurate information that can be amplified by trusted sources.

### D. Coordinating with Civic Engagement Organizations

Civic engagement organizations often work directly with voters. Developing strong relationships with groups in the time leading up to an election is crucial to establishing credibility and communication.

## 10. HOW VOTERS CAN HELP

### A. Update/Confirm Voter Registration Status

Voters can verify the accuracy of their voter registration record and make any necessary updates by visiting [www.arizona.vote](http://www.arizona.vote) and/or contacting the Secretary of State or their County Recorder.

### B. Understanding the Right to Vote

The best response to attempts to disrupt our elections or spread misinformation that discourages voting is for voters to continue to register and exercise their right to vote. Voters have a right to a ballot, even if its provisional, have a right to vote if they are in line by the close of polls, and can request and receive assistance to support them in exercising their right to vote.

### C. Know Trusted Sources for Election Information

It is important to always get information about when and how to vote from trusted sources.

### D. Being Ballot Aware

Be aware of relevant laws related to returning of ballots, as well as deadlines for returning ballots by mail or dropping it off in-person.

### E. Beware of Sensationalist News Stories

No matter the situation, beware of the headline that says, “Election Hacked!”. Election-related systems are often incorrectly identified as an election system. Again, look to trusted sources of information for reliable news about elections.

# **Exhibit 3**



**KATIE HOBBS**  
SECRETARY OF STATE

March 3, 2021

VIA EMAIL ONLY

Senate President Karen Fann  
Senator Warren Petersen  
1700 W. Washington  
Phoenix, AZ 85007  
[kfann@azleg.gov](mailto:kfann@azleg.gov)  
[wpetersen@azleg.gov](mailto:wpetersen@azleg.gov)

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;<sup>1</sup>
- Develop and implement procedures to ensure the physical security of the ballots<sup>2</sup> and physical, data, and cyber security of election equipment,<sup>3</sup> 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 parties<sup>4</sup> and only conducted under camera with a live video feed and that the video footage is retained for 24 months;<sup>5</sup>
- 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;

---

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

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

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

<sup>4</sup> See Elections Procedures Manual ch. 10 and statutory provisions cited therein.

<sup>5</sup> 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.<sup>6</sup>

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 Baker<sup>7</sup> 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.

---

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

<sup>7</sup> 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](mailto:rrios@azleg.gov)  
Senator Martin Quezada, Ranking Member, Judiciary: [mquezada@azleg.gov](mailto:mquezada@azleg.gov)

Maricopa County Board of Supervisors:  
Jack Sellers, District 1, Chair: [Jack.Sellers@maricopa.gov](mailto:Jack.Sellers@maricopa.gov)  
Steve Chucri, District 2: [Steve.Chucri@maricopa.gov](mailto:Steve.Chucri@maricopa.gov)  
Bill Gates, District 3: [Bill.Gates@maricopa.gov](mailto:Bill.Gates@maricopa.gov)  
Clint Hickman, District 4: [Clint.Hickman@maricopa.gov](mailto:Clint.Hickman@maricopa.gov)  
Steve Gallardo, District 5: [Steve.Gallardo@maricopa.gov](mailto:Steve.Gallardo@maricopa.gov)

Scott Jarrett, Director of Election Day and Emergency Voting,  
Maricopa County Elections Department: [sjarrett@risc.maricopa.gov](mailto:sjarrett@risc.maricopa.gov)

# **Exhibit 4**

## Fann passes on experienced auditor, picks cheapest

By: Dillon Rosenblatt © April 23, 2021



Officials guide a truck into the loading area prior to unloading election equipment into the Veterans Memorial Coliseum at the state fairgrounds, Wednesday, April 21, 2021, in Phoenix. Maricopa County officials began delivering equipment used in the November election won by President Joe Biden on Wednesday and will move 2.1 million ballots to the site Thursday so Republicans in the state Senate who have expressed uncertainty that Biden's victory was legitimate can recount them and audit the results. (AP Photo/Matt York)

Arizona Senate President Karen Fann passed up an opportunity to hire an experienced audit company to conduct its ballot review, opting instead for a company without experience and founder has said he believes President Joe Biden stole the election.

*Arizona Capitol Times* received public records from the Senate on offers to conduct the audit of Maricopa County's 2.1 million ballots from the November election.

The records request revealed only two firms that put in an official offer – neither of which was Ninjas, the group Fann ultimately selected. Clear Ballot Group, a Massachusetts firm that has conducted election audits in several states, including a statewide audit in Maryland and Vermont, offered to do the audit within six weeks for \$415,000.

On its website, the company says it “offers much more than a post-election audit solution. It is the only system capable of tabulating other system's ballots to provide an independent comparison of results for purposes of post-election audits.”

Keir Holeman, Clear Ballot's vice president of technical services, wrote in the proposal letter that the group is also conducting audits for multiple counties in Florida and New York as well as projects in South Carolina and Colorado.

“It is this experience that makes us confident we can help you with your desire to audit the

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Karen Fann

equipment and technology.

Cyber Ninjas and its subcontractors have pledged to conduct a full “forensic” audit of the equipment, including using “kinematic artifact detection technology (essentially looking at folds in ballots to determine if it’s a fake mail-in ballot) developed by Jovan Hutton Pulitzer, an inventor who years ago developed a handheld, cat-shaped scanner that was widely ridiculed and dubbed “one of the most ridiculed products of the internet era” by *Time* magazine.

Pulitzer acknowledged recently that he would have some involvement in the Senate’s audit.

He claimed that “technology” he developed is being used.

“I am happy to confirm that #ScanTheBallots for #KinematicArtifact detection is being used,” Fann wrote on Twitter, calling the auditing team hired by the Senate “one of the most impressive and qualified auditing teams ever assembled.”

A quick dive into Holeman’s online presence shows he’s basically the polar opposite of the Cyber Ninja CEO, Doug Logan. Holeman used to be an elections official in Ohio and said he doesn’t believe the election was stolen.

According to his LinkedIn, he was the election coordinator for the Montgomery County Board of Elections, then served as a regional director for Diebold Elections, the group known for election equipment problems during the 2000 presidential recount in Florida. (Dominion now owns Diebold.)

Holeman then went on to become the director of the Warren County Board of Elections and eventually found his way to VOTEC Corporation before starting at Clear Ballot in August 2019.

Holeman created his Twitter account in January and his first post was a retweet of the FBI’s release of information about insurrectionists. His entire feed is now mostly made up of critiques of Republican congressmen over the January 6 riot at the U.S. Capitol and few retweets of others commenting on why they think President Trump should be convicted by the U.S. Senate after being impeached for a second time.

Of course, that presence won’t ingratiate an auditor to Senate Republicans, but Fann has made it clear that a person’s tweets shouldn’t disqualify them from auditing the election on the Senate’s behalf.

“Just because somebody found some Tweet that’s within some archive program that says...”

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Fann and the Senate skipped out on going to the floor on April 21 in favor of going to a photo opportunity at the border with Gov. Doug Ducey, and her spokesman did not answer several questions.

Fann additionally passed on hiring a cybersecurity company called Intersec Worldwide, which pitched a process that would take roughly 20,000 hours and cost more than \$8 million, not the auditors' travel and expenses. Email records show Fann interviewed the company in early March.

Intersec's pitch included biographies for each of its top executives and then broke down its work into five categories: Engagement, evidence preservation, forensics analysis, forensics results and testimony/defense findings.

David Hughes, the vice president of sales, made the official pitch and said the engagement and evidence need to happen "immediately regardless of who does the work."

The engagement phase would include setting up legal agreements, contracts and retainers would take roughly 500 hours. Securing the evidence, including taking forensic images and hard drives, would take about 2,500 hours, according to the proposal. Those two projects would cost \$1.45 million. The actual audit would tack on another \$6.6 million.

Hughes would not answer any questions about the interview with Fann.

What's still unclear is how many groups Fann actually interviewed, if Cyber Ninjas received an interview at all and why the Senate took the cheapest offer when the audit liaison Ken Bennett, Arizona's former secretary of state, repeatedly remarked how \$150,000 would not be enough to conduct the full audit.

Bennett said that the auditors will be accepting outside sources of money, which will not be subject to Arizona's public records law. He said he hopes for transparency, but also said he wouldn't do anything to ensure the auditors would be transparent about donors.

"The only agenda that I'm going to make sure happens is that we do the audit in a fair and completely transparent and accurate way," he said. "If the agenda of somebody wanting to contribute for anything other than that, then it's a waste of their money."

**Issue:** [AUDIT](#) [CLEAR BALLOT GROUP](#) [CYBER NINJAS](#) [DIEBOLD ELECTIONS](#) [DOMINION](#) [DOUG LOGAN](#) [ELECTION](#) [JOE BIDEN](#) [JOVAN HUTTON PI](#)  
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# CEO of firm eyeing ballots appeared to make political posts

By BOB CHRISTIE March 31, 2021



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PHOENIX (AP) — The CEO of a company hired by Arizona Senate Republicans to lead a re-count of all 2.1

million ballots cast in the state’s most populous county in November appears to have posted sympathetically about election conspiracies in a now-deleted Twitter account.

Senate President Karen Fann announced Wednesday that an independent audit of the election in Maricopa County would use four firms, with a Florida-based cyber security company called [Cyber Ninjas](#) leading the effort. The Senate

by Taboola

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Fann promised a non-partisan independent audit of the elections results before choosing Cyber Ninjas, which focuses on computer application security for financial services and government clients. But according to an [archive of what appears to be Cyber Ninjas founder Doug Logan's Twitter account](#), he used hashtags and shared memes popular with people promoting disproven or unsupported allegations casting doubt on Biden's victory.

For instance, on Dec. 14 Logan retweeted a response to a tweet by Arizona Republican Party Chair Kelli Ward in which she questioned the validity of 200,000 Maricopa County ballots. The response by another user said "Hint: After auditing the adjudicated ballots and corresponding AuditMarks, you may discover Trump got 200k more votes than previously reported in Arizona."

The account, @securityvoid, identifies the owner as Logan and describes him as "Follower of Christ, Founder of @CyberNinjas, CTO of @uscybchallenge, Software Security Aficionado, and proud American." The account was deleted sometime between Jan. 4 and the announcement of his selection to lead the audit, but it's not clear precisely when.

The Associated Press could not independently verify if the account actually belonged to Logan, but he used

the @securityvoid handle on [presentation documents](#) located by the AP. There was no immediate response to a request for comment sent to Cyber Ninjas. Fann did not respond to a request about Logan's Twitter posts.

Fann's announcement of the auditors' hiring came more than a month after a judge ruled the Senate can access Maricopa County's ballots, ballot tabulation equipment and other election

just two weeks ago confirmed that she also intended to recount ballots in the presidential race.

The other three firms hired to perform the review are Wake Technology Services Inc., CyFIR LLC and Digital Discovery. CyFIR specializes in computer forensics and cyber attacks, while Wake has performed hand-count audits in Pennsylvania and New Mexico, according to the Senate. No additional background was provided on Digital Discovery, but its website says it focuses on digital forensics.

Recounts are something state law doesn't allow except in narrow circumstances, but the judge's ruling said the Senate has oversight powers that allow it to do whatever election review it wants.

Secretary of State Katie Hobbs, a Democrat, had urged Fann to avoid tainting her audit by hiring anyone with partisan ties. In a statement after Fann's announcement, she urged full disclosure involving the companies.

"Arizona voters deserve full transparency regarding the selection and scope of work of these firms," Hobbs said. "Proceeding without transparent procedures will threaten the confidence in and integrity and independence of the audit and can open the door to more conspiracy theories and further erosion of voters'

confidence in Arizona's elections processes."

The Senate provided a contract Fann signed along with Logan that showed the firm will provide a host of election review services for \$150,000. The contract written by Cyber Ninjas said the hand count of federal races will be done using former law enforcement officers, retired military and other retirees in teams of three who have not

election software was not altered.

Fann has said she wants to prove or disprove so-far unsubstantiated allegations made by backers of former President Donald Trump that fraud or other election malfeasance led to his loss in Arizona and other battleground states.

Fann has also said she wants Maricopa County to assist in the audit, but so far county officials have not said they were willing to help.

The Republican-controlled Board of Supervisors fought the Senate subpoenas and repeatedly said there were no issues with how the election was conducted. Multiple reviews, audits and a hand-count of a sample of ballots back that position.

“Our people need to be assured that the Senate and Maricopa County can work together on this audit, to bring integrity to the election process,” Fann said in a statement. “As Board Chair (Jack) Sellers and County Recorder (Stephen) Richer wrote in the Arizona Republic ‘a democracy cannot survive if its people do not believe elections are free and fair.’”

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That op-ed in the Republic was written in January, when the board was fighting the Senate subpoenas and was preparing to do two additional election audits in an effort to mollify lawmakers.

Sellers said in a statement Wednesday that the county doesn’t know anything about the auditors Fann chose, stands by the election results and has been ready to hand over the ballots for months. He said there been no discussions about using county facilities to do the audit.

Last month, the county released the results of two new audits of their equipment that showed no malicious software or incorrect counting equipment and that none of the computers or equipment were connected to the internet.



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# **Exhibit 5**



# Statement of Work

**This Statement of Work (the “Statement of Work”) is effective as of as of the 31 day of March, 2021 (the “Effective Date”), between Cyber Ninjas Inc., a Florida Corporation, (“Contractor”), and Arizona State Senate (“Client”), and is deemed to be incorporated into that certain Master Service Agreement dated March 31, 2021 (the “Master Agreement”) by and between Contractor and Client (collectively, this Statement of Work and the Master Agreement are referred to as the “Agreement”).**

## 1 WHY CYBER NINJAS

---

Cyber Ninjas is a cyber security company with a focus on application security and ethical hacking. We perform work across the financial services and government sectors. Our expertise allows us to both understand complex technology systems, as well as understand how a malicious attacker could potentially abuse those systems to meet his or her own agenda. This allows us to effectively enumerate the ways a system could be exploited, and with our partners to fully review if that scenario did in fact occur. This is very different from the compliance focused way that election systems are typically evaluated.

Both our company and our partners have extensive experience working specifically with Dominion Voting Systems. In addition, our subcontractors and partners are adept at digital forensic acquisition, and on implementing ballot hand-counting procedures. Two of our team members authored a hand-count ballot process that has been utilized in audits in two states; and has further been perfected for transparency and consistency. This combination of skills, abilities, and experience is what uniquely qualifies our team for the outlined work.

## 2 OUR TEAM

---

Cyber Ninjas will serve as the central point-of-contact and organizer of all work conducted over the course of this agreement. However, there are different teams involved in each phase of the outlined work. Each of these teams have specialities and experience within the outlined areas of their coverage. This expertise is highlighted below.

### 2.1 Registration and Votes Cast Team

The Registration and Votes Cast Team has worked together with a number of individuals to perform non-partisan canvassing within Arizona related to the 2020 General election in order to statistically identify voter registrations that did not make sense, and then knock on doors to confirm if valid voters actually lived at the stated address. This brought forth a number of significant anomalies suggesting significant problems in the voter rolls.

They will be continuing this work as part of this effort to validate that individuals that show as having voted in the 2020 General election match those individuals who believe they have cast a vote.

## 2.2 Vote Count & Tally Team - Wake Technology Services

Members of the Wake Technology Services group have performed hand-count audits in Fulton County, PA and in New Mexico as part of the 2020 General Election cycle. In addition, team members have been involved in investigating election fraud issues, dating back to 1994. In that particular case in 1994, this team member worked closed with the FBI during the investigation.

As part of these audits in 2020, the Wake Technology Services team has developed an in-depth counting process that reduces opportunities for errors. This counting process has been expanded to make it more robust, and more transparent. As a result, they will be leading all ballot hand-counting processes.

## 2.3 Electronic Voting System Team – CyFIR, Digital Discovery & Cyber Ninjas, Analysts

Digital Forensic Acquisition will be performed either by CyFIR or Digital Forensics, and the analysis work will be performed by Cyber Ninjas, CyFIR and a number of additional analysts, the identities and qualifications of whom shall be made available to Client upon request.

CyFIR is a **digital security and forensics company and a subcontractor on the contract for DHS's** Hunt and Incident Response Team (HIRT). As specialists for DHS, they are familiar with responding to nation-state cyber activity including Advanced Persistent Threats (APT).

# 3 GENERAL PROVISIONS

---

- 3.1 Introduction. The terms and conditions that are specific to this Statement of Work are set forth herein. Any terms and conditions that deviate from or conflict with the Master Agreement are set forth in the **“Deviations from Terms of the Master Agreement” Schedule hereto. In the event of a conflict between the provisions of this Statement of Work and the Master Agreement, the provisions of Section 2.34 of the Master Agreement shall control such conflict.**
- 3.2 Services. Contractor will provide to the Client the Services in accordance with the Master Agreement (including the Exhibits thereto) and this Statement of Work (including the Schedules hereto). The scope and composition of the Services and the responsibilities of the Parties with respect to the Services described in this Statement of Work are defined in the Master Agreement, this Statement of Work, and any Schedules attached hereto.

# 4 SCOPE & SERVICES DESCRIPTION

---

This Statement of Work outlines the proposed methodology and scope for a full and complete audit of 100% of the votes cast within the 2020 November General Election within Maricopa County, Arizona. This audit will attempt to validate every area of the voting process to ensure the integrity of the vote. This includes auditing the registration and votes cast, the vote counts and tallies, the electronic voting system, as well as auditing the reported results. The final report will attempt to outline all the facts found throughout the investigation and attempt to represent those facts in an unbiased and non-partisan way. The final report will not include factual statements unless the statements can be readily substantiated with evidence, and such substantiation is cited, described, or appended to the report as appropriate.

The following sub-sections provides additional details of what will be conducted at each stage of the audit.

## 4.1 Registration and Votes Cast Phase

---

During the Registration and Votes Cast Phase, it will be validated that Maricopa County properly registers who voted during an election, and that this system properly prevents duplicate voting. This will be performed on a minimum of three precincts.

Proposed scope of work:

- Review of **Arizona's** SiteBook system for checking in and tracking voters;
- Complete audit of a minimum of 3 precincts, based on statistical anomalies and precinct size;
- Analysis of existing research and data validating the legitimacy of voter rolls; and/or
- Comparing results against known lists of invalid voters (e.g. deceased voters, non-citizens, etc.).

This phase may help detect:

- Problems that could result in voters being able to vote more than once;
- Voters that voted but do not show in the list of those who voted;
- Voters who likely did not vote but showed as having voted;
- Potential invalid voters who cast a vote in the 2020 general election; and/or
- Inconsistencies among vote tallies between the various phases.

This phase is NOT expected to detect:

- Individual ballots that are either wrong and/or invalid.

Anticipated artifacts for transparency and/or validation of results for the public:

- Final report outlining the discovered results; and/or
- Redacted spreadsheet of a list of those who voted in the target precincts.

## 4.2 Vote Count & Tally Phase

---

During the Vote Count & Tally Phase, the counts and tallies for votes and the voting machines will be validated. This will include a hand-tally and examination of every paper ballot.

Proposed scope of work:

- Physically inspecting and hand-counting of ballots in Maricopa County;
- Counting of the total number of provisional ballots;
- Capture of video footage of the hand-counting of ballots; and/or
- Scanning of ballots in Maricopa County
  - NOTE: Provisional ballots which still have signatures attached to them will be counted to be sure they match the expected numbers but will not be scanned nor will the contents be visible in video.

This phase may help detect:

- Counts that do not match the expected results;
- Ballots that are visually different and possibly fraudulent; and/or
- Inconsistencies among vote tallies between the various phases.

This phase is NOT expected to detect:

- Destroyed or otherwise missing ballots

Anticipated artifacts for transparency and/or validation of results for the public:

- Final report outlining the discovered results;
- Unedited camera footage of the counting of every ballot, provided that, absent express judicial approval, any such footage cannot be streamed, recorded or broadcast in such a manner that the candidate or ballot proposition selections on each ballot is visible or discernible; and/or
- Ballot images of every scanned ballot, provided that, absent express judicial approval, any such images cannot be released or published to any third party.

### 4.3 Electronic Voting System Phase

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During the Electronic Voting System Phase the results from the electronic voting machines will be validated to confirm they were not tampered with. This will be done on all systems related to SiteBook with Maricopa data, as well as all **Election Management System related machines besides the Ballot Marking Devices (BMD)'s utilized for accessibility.**

Proposed scope of work:

- **Forensic Images of Arizona's SiteBook System** including the database server, as well as any client machines associated with Maricopa County;
- Forensic images captured of the Election Management System main server, adjudication machines, and other systems related to the Election Management System;
- Forensic images of all Compact Flash, USB drives, and related media;
- Inspection to identify usage of cellular modems, Wi-Fi cards, or other technologies that could be utilized to connect systems to the internet or wider-area-network;
- Review of the Tabulator Paper Tally print-outs;
- Reviewing **the exports from the EMS for "Audit File", "Audit Images" and "CVR"**;
- Reviewing ballot images captured by the tabulators
- Reviewing forensic images for possible altering of results or other issues; and/or
- Reviewing of tabulator and other logs.

This phase may help detect:

- Problems where the tabulator incorrectly tabulated results;
- Problems where the tabulator rejected results;
- Issues where results may have been manipulated in the software;
- Issues with the improper adjudication of ballots; and/or
- Inconsistencies among vote tallies between the various phases.

Anticipated artifacts for transparency and/or validation of results for the public:

- Final report outlining the discovered results;
- Ballot images and AuditMark images showing how the tabulator interpreted the ballot for counting, provided that, absent express judicial approval, such images cannot be released or published to any third party;
- CVR Report as generated from the software; and/or
- Log Files from the Tabulators (Redacted if Dominion Desires).

## 4.4 Reported Results Phase

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During the Reported Results Phase, results from all phases are compared against those expected results and those results which were publicly totalled as the official results to identify any inconsistencies.

Proposed scope of work:

- Results from various phases will be reviewed and tallied; and
- Results will be compared against the official, certified results.

This phase may help detect:

- Issues where result tallies were not properly transmitted to the official results; and/or
- Inconsistencies among vote tallies between the various phases.

Anticipated artifacts for transparency and/or validation of results for the public:

- Final report outlining the discovered results

## 5 METHODOLOGY

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The following section outlines the proposed methodology utilized in the various phases of the audit. When appropriate, these sections may reference more detailed procedures. Such procedures are considered proprietary and the intellectual property of Cyber Ninjas, our subcontractors or our Partners and can be made available for review but are not explicitly part of this agreement.

### 5.1 Registration and Votes Cast Phase

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During the “Registration and Votes Cast Phase”, Contractor may utilize precincts that have a high number of anomalies based on publicly available voting data and data from prior canvassing efforts to select a minimum of three precincts to conduct an audit of voting history related to all members of the voter rolls. A combination of phone calls and physical canvassing may be utilized to collect information of whether the individual voted in the election. No voters will be asked to identify any candidate(s) for whom s/he voted. This data will then be compared with data provided from Maricopa County Board of Elections.

### 5.2 Vote Count & Tally Phase

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The goal of the “Vote Count & Tally Phase” is to attempt to, in a transparent and consistent manner, count all ballots to determine the accuracy of all federal races, and to identify any ballots that are suspicious and potentially counterfeit. Ballots will be counted in a manner designed to be accurate, all actions are transparent, and the chain of custody is maintained.

#### 5.2.1 Counting Personnel

Non-partisan counters will be utilized that are drawn from a pool of primarily former law enforcement, veterans, and retired individuals. These individuals will undergo background checks and will be validated to not have worked for any political campaigns nor having worked for any vendor involved in the voting process. These individuals will also be prevented from bringing any objects other than clothing items worn on their persons into the counting area or taking any objects out of the counting area.



#### 5.2.2 Accurate Counting

Counting will be done in groups with three individuals independently counting each batch of ballots, and an individual supervising the table. All counts will be marked on a sheet of paper as they are tallied. If, at the end of the hand count, the discrepancies between counting personnel aggregate to a number that is greater than the margin separating the first and second place candidates for any audited office, the ballots with discrepant **total from the Contractor's counting** personnel will be re-reviewed until the aggregate discrepancies within the hand count are less than the margin separating the first and second place candidates.

#### 5.2.3 Transparent Counting

All activity in the counting facility will be videotaped 24 hours a day, from the time that Maricopa County delivers ballots and other materials until the time that the hand count is complete and all materials have been returned to the custody of Maricopa County. Such videotaping shall include 24-hour video monitoring of all entrances and exits, as well as activity at the counting tables.

#### 5.2.4 Chain of Custody

All movement with ballots, cutting of seals, application of seals, and similar actions will be appropriately documented and logged, as well as captured under video to be sure the custody of ballots is maintained at all times. Access to the counting area will be restricted to duly authorized and credentialed individuals who have passed a comprehensive background check, with mandatory security searches and ingress/egress logs whenever entering or exiting the counting area.

### 5.3 Electronic Voting System Phase

---

The proposed scope of the "Electronic Voting System Phase" is to confirm that the system accurately tallied and reported the votes as they were entered into the system and that remote access was not possible. All systems related to the voting will be forensically imaged, these machines will be booted up and checked for wireless signal usage, and the images will be reviewed to determine the accuracy of results and any indication of tampering.

#### 5.3.1 Forensic Images

A digital forensics capture team will forensically capture all data on in-scope systems, utilizing industry best practices. This will create a digital copy of every single machine, Compact Flash Card, and USB drive in scope without altering the contents of the machines. Chain-of-custody documentation will be created to preserve these images in a manner sufficient to be utilized in a court-of-law.

#### 5.3.2 Physical Analysis

The Election Management System equipment will be turned on and scanned with a wireless spectrum analysis tool to determine if the device is emitting any signals consistent with a known wireless frequency such as cellular, Bluetooth, WiFi or similar. Devices that show signs of emitting signals will be flagged and documented, and when possible without damaging the equipment; they will be physically inspected to determine the source of any detected signals.

#### 5.3.3 Digital Analysis

The forensic images will be reviewed to validate reported totals from the tabulators, results stored within the Election Management System (EMS) Results Tally and Reporting software. These will be compared against the tabulator print-outs; and the machine will be checked for physical or digital tampering and any known ways of remote access to the machines.

#### 5.3.4 Opportunity for Observation

Before commencing the imaging or analysis steps described above (except for the Digital Analysis process), the Contractor will work with Maricopa County to provide at least five (5) days advance notice to any vendors of Maricopa County whose products will be the subject of imaging, inspection, or analysis. Such vendors will be permitted the opportunity to attend and observe **the Contractor's** imaging or inspection of **the vendors'** products. The vendor will not be allowed to be present for the analysis of the captured images. Such vendors are third party beneficiaries of this provision and will have standing to challenge and secure injunctive relief against any denial of their right to observe the inspection of their products.

### 5.4 Reported Results Phase

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During the Reported Results phase, results from all phases are compared to find differences between tallies or other anomalies. These results are then compared against data at the Secretary of State and Maricopa Board of Elections layers. Any inconsistencies will be reported and highlighted.

## 6 RESPONSIBILITIES

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The following section outlines the key responsibilities for the proper execution of the Agreement between the Contractor and the Client for all outlined work within the scope.

### 6.1 Registration and Votes Cast Phase

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#### Contractor Responsibilities

- Provide the proper personnel to conduct the analysis of the data required to execute the scope of this phase.

#### Client Responsibilities

- Arrange for a database export of SiteBook to be provided to the Client which includes all fields normally found in a publicly requested copy of the voter rolls, in addition to any other non-sensitive fields related to the data such as modifications or other time-stamps, voter history, last user edited, IP address of edit; or anything similar.

### 6.2 Vote Count & Tally Phase

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#### Contractor Responsibilities

- Provide the proper personnel and equipment to execute all aspects of the phase including scanning, counting, the setup of equipment for recording of the counting, and the supervision of activities.
- Ensure that all onsite personnel follow any in-place COVID requirements.

#### Client Responsibilities

- Provide security of the building during the course of the engagement. This includes having sufficient security to prevent access to the building 24/7 during the entire time, including ensuring that safe working conditions can exist during the entirety of the audit;
- Provide electricity and access to the facilities and tables necessary for up to 120 people at a time following any current COVID requirements. This is estimated to be about 7,200 square feet;
- Provide access to all paper ballots from the November 2020 General Election within Maricopa County. This includes early voting, election day ballots, provisional ballots, spoiled ballots, printed unused ballots and any other ballot categories that are part of the 2020 General Election. For all ballots this should include the original hard copies of the ballots that were electronically adjudicated ballots.
- Provide a mechanism to allow for the proper equipment to be brought into the facility where the counting will take place.

- Full chain of custody documentation for all ballots from the point they were cast to the point where we gain access to the ballots, **to the extent such documentation is in Client's possession.**
- Purchase orders for all purchased ballots, or ballot paper, including counts of each, as well as delivery receipts of the quantity of ballots received, **to the extent such documentation is in Client's possession.**
- Full counts from any ballots printed on demand, as well as the location for which they were printed, to the **extent such documentation is in Client's possession.**
- Provide wired access to internet to be able to stream the counting video capture, provided that any such video footage must be streamed, recorded or broadcast in such a manner that the candidate or ballot proposition selections on each ballot shall not be visible or discernible.

### 6.3 Electronic Voting System Phase

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#### Contractor Responsibilities

- Provide the proper personnel to execute all aspects of the phase including the capture of forensic digital images of all systems related to the Election Management System; and
- Ensure that all onsite personnel during the forensic capture follow any in-place COVID requirements.

#### Client Responsibilities

- Provide physical access to the EMS Server, Adjudication machines, ImageCast Central, ImageCast Precinct, ImageCast Ballot Marking Devices, SiteBook, NOVUS systems, and any other Election Management System equipment or systems utilized in the November 2020 General Election to the forensic capture team;
- Provide access to Compact Flash Cards, USB Drives, and any other media utilized in the November 2020 General Election for the forensic capture team to image;
- Provide electricity and sufficient access to the machines in scope in order to provide a team of up to 15 forensic capture individuals to work and boot up the systems;
- Provide any needed credentials for decrypting media, decrypting computer hard drives, the EMS machines, or other systems that may be required for a proper forensic capture of the machines;
- Provide the output of the **"Audit File," "Audit Images," and CVR exports from the Dominion machines** which includes all ballot images and AuditMark images of every ballot processed by the machines; and
  - NOTE: The above may be able to be captured from the forensic images; but Maricopa County assistance could be needed in identifying where the AuditMark files are located.
- Provide any needed technical assistance allowing all the above to be successfully captured.

### 6.4 Reported Results Phase

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#### Contractor Responsibilities

- Provide the proper personnel to conduct the analysis of the data required to execute the scope of this phase.

#### Client Responsibilities

- Provide the official results per precinct for all counts associated with the November 2020 General Election.

## 7 DELIVERABLE MATERIALS

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The primary deliverable for the Election Audit will be a report detailing all findings discovered during the assessment. The parties agree that the report is provided AS IS, without any promise for any expected results. Additional artifacts as collected during the work will also be provided, as outlined within the scoping details.

This final report will include:

- An executive summary outlining the overall results of the audit from the various phases;
- A methodology section outlining in detail the methodology and techniques utilized to capture and validate the results;
- Tables, charts, and other data representing the findings of the data;
- Appendices or attached files demonstrating all evidence utilized to come to the outlined conclusions (if applicable); and
- Recommendations on how to prevent any detected weaknesses from being a problem in future elections (if applicable).

In addition to the report, various anticipated artifacts for public consumption will be generated over the course of this work, as outlined under the “Scope of Work.” Client will determine in its sole and unlimited discretion whether, when, and how the Contractor should release those resources to the public. This will include all videos, ballot images, and other data.

## 8 COMPLETION CRITERIA

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Contractor shall have fulfilled its obligations when any one of the following first occurs:

- Contractor accomplishes the Contractor activities described within this Statement of Work, including delivery to **Client of the materials listed in the Section entitled “Deliverable Materials,” and Client accepts such activities** and materials without unreasonable objections; or
- If Client does not object or does not respond to Contractor within seven (7) business days from the date that the deliverables have been delivered by Contractor to Client, such failure to respond shall be deemed acceptance by Client.

## 9 TERM / PROJECT SCHEDULE / LOCATION

The following table outlines the expected duration of the various proposed work outlined within the Agreement. Work will commence on a date mutually agreeable to both Contractor and Client according to a schedule which is outlined via email.

Each phase outlined below can be conducted simultaneously, with the exception of the Reported Results phase which must be completed at the end. Roughly an additional week of time at the conclusion of all phases is needed to complete and finalize reporting. Lead times before a phase can start as well as their duration can be found below. Faster lead times can potentially be accommodated on a case-by-case basis.

Service Name	Required Notice / Lead Time	Est. Duration in Days	Additional Details / Location
Registration and Votes Cast Phase	1 Week	20	This work will be done remotely.
Vote Count & Tally Phase	2-3 Weeks	20*	The entire time will be onsite at the location designated by the Client.  Access will be required 4 days before the start to setup the space.  *Race recounts as outlined in 5.2.2 may require the timeline to be extended beyond the listed days.
Electronic Voting System Phase	1-2 Weeks	35	It is estimated that 15 will be onsite. The remainder of the time will be remote.  Review of location setup is requested the week prior to ensure proper workspace.
Reported Results Phase	Completion of Other Phases	5	This phase will be completed offsite.  Final Report Delivered 1 Week After Completion

## 10 FEES / TERMS OF PAYMENT

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The following table outlines the costs associated with the proposed work. A third of the fees will be due at the execution of the contract. The remaining balance will be payable within 30 days from the completion of the audit.

Selected	Name	Price Each	Total
1	Maricopa County – Full Audit	\$150,000	\$150,000.00
		<b>Total:</b>	\$150,000.00

## 11 SIGNATURE & ACKNOWLEDGEMENT

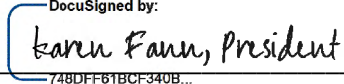
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THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ THIS STATEMENT OF WORK, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS. FURTHER, THE PARTIES AGREE THAT THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES RELATING TO THIS SUBJECT SHALL CONSIST OF 1) THIS STATEMENT OF WORK, 2) ITS SCHEDULES, AND 3) THE AGREEMENT (INCLUDING THE EXHIBITS THERETO), INCLUDING THOSE AMENDMENTS MADE EFFECTIVE BY THE PARTIES IN THE FUTURE. THIS STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES SUPERSEDES ALL PROPOSALS OR OTHER PRIOR AGREEMENTS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATIONS BETWEEN THE PARTIES RELATING TO THE SUBJECT DESCRIBED HEREIN.

IN WITNESS WHEREOF, the parties hereto have caused this Statement of Work to be effective as of the day, month and year written above.

Accepted by:

Client: Arizona State Senate

By:    
748DFF61BCF340B...

Title: Karen Fann, President

Accepted by:

Contractor: Cyber Ninjas, Inc.

By: 

Douglas Logan

Title: CEO & Principal Consultant



# **Exhibit 6**

[https://www.pinalcentral.com/politics/senate-won-t-say-who-is-funding-the-election-audit-or-allow-media-access/article\\_d45de7d8-92db-5a1f-a58d-93950b9991d0.html](https://www.pinalcentral.com/politics/senate-won-t-say-who-is-funding-the-election-audit-or-allow-media-access/article_d45de7d8-92db-5a1f-a58d-93950b9991d0.html)

## Senate won't say who is funding the election audit or allow media access

By JEROD MacDONALD-EVOY, Contributing Writer

Apr 24, 2021



Yellow Sheet Report Editor Hank Stephenson is confronted by security after he and other reporters who were denied access to a press conference on the election audit entered Veterans Memorial Coliseum through an unlocked side door. Photo by Jerod MacDonald-Evoy | Arizona Mirror

PHOENIX -- A heated press conference on the eve of the Arizona Senate's audit of the Maricopa County presidential election revealed key information about how the audit will unfold in the coming weeks and laid bare issues with media access and transparency about who is paying for the audit.

"You want to paint me as some bad guy," Doug Logan, the CEO of lead auditing firm Cyber Ninjas, retorted in the face of questions about who was paying for the audit. "Anybody who walks into any election integrity thing gets butchered by everybody."

Press access — or the lack thereof — was front and center at a media briefing that began 90 minutes late and after the Senate’s audit team tried to bar several journalists from attending the press conference because they had not properly requested prior permission to be present.

One group of reporters found an unlocked side door into the building, which is the temporary home to 2.1 million ballots and all of the county’s election equipment, and made their way in, causing a commotion and leading to security rushing the reporters.

The reporters were blocked from entering because the audit team invited local media to the press conference in two different ways. Some news organizations — including the Arizona Mirror — were sent a notice by a Florida-based public relations firm and were told to RSVP ahead of time. Others were given notice of the media event by Ken Bennett, a former secretary of state and the Senate’s “liaison” to the auditors. Journalists who responded to the PR firm’s invitation were allowed in, while those who were invited by Bennett were blocked at the entrance.

Eventually, all of the reporters were allowed access to the press briefing, but the incident set the stage for a combative evening.

Press access was a big concern going into the press conference, as the audit team announced Wednesday that reporters would have to work 30 hours as an observer in order to cover the audit, though Bennett said that has now been reduced to a single six-hour shift. Journalists who do so cannot bring notepads, take photos, record or do any of the duties that would qualify as reporting while observing

“We want everyone down here observing and not reporting,” Bennett said Thursday, reiterating that the policy was remaining in place. “Arguing and asking me about it is not going to change anything about it.”

He said the policy was created “in consultation” with the Florida based firm conducting the audit, Cyber Ninjas.

Bennett said that the basketball stadium does not have enough room for reporters. The audit is taking place on the central floor of the 14,870-seat multi-purpose indoor arena.

Instead of allowing media into the building to watch and report on the audit, he said he will be conducting press briefings each afternoon.

Arizona Mirror, the Arizona Republic and the Arizona Broadcasters Association on Thursday sent a letter to Bennett and Senate President Karen Fann demanding that the restrictions on journalists be lifted.

“Requiring journalists to become active participants in the events on which they seek to report is as unprecedented as it is untenable in a representative democracy,” attorney David Bodney wrote on behalf of the Mirror and others. “It also violates the First Amendment, which compels that members of the press be allowed access to report on these public proceedings.”

Bodney noted that Fann and other Republican senators supporting the audit have said it is necessary to restore shaken confidence in Arizona’s elections.

“(A)llowing press access here would certainly play a significant positive role in the functioning of the audit: if the purpose of the audit is to foster public trust in Arizona’s elections, it is critical that there also be public trust in the audit itself. Such can only be achieved by fair, open access to the press,” he wrote.

The firm leading the audit, Cyber Ninjas, has come under fire because its CEO has spread election fraud conspiracies and worked to help Republican U.S. senators overturn Joe Biden’s election as president.

Cyber Ninja CEO Doug Logan’s now-deleted Twitter account retweeted accounts that claimed there was fraud in the 2020 election against former President Donald Trump and also used the hashtag “#StopTheSteal.”

Bennett refused to take questions about Logan’s political ideologies and said that bringing up “old tweets” was not part of the press conference.

“We’re not here to audit Mr. Logan’s opinions about anything,” Bennett said.

However, the companies hired to do the audit are auditing the opinions of the people being hired to hand-count all 2.1 million ballots cast in Maricopa County in November.

So far, they have hired 150 counters through a subcontractor named Wake Technologies, and part of the vetting process included looking at the social media of those involved. Individuals also are coming from “credible professions” such as “police” and “retired military” and other “retired” professions, Logan said.

The plan for the audit is to have one person scan each ballot, which will then display that ballot onto a computer screen for three people at a table to see. Those people can also compare the image on the screen to the physical ballot.

If two of the three people agree on what the votes are for the presidential and U.S. Senate races — the only two contests being audited — then those votes will be recorded for that ballot.

“The short answer is time,” Logan said on why they are only focusing on those races.

Logan said he didn’t know whether there were enough Republican, Democratic and independent counters to ensure that each trio of counters would be bipartisan. A last-minute lawsuit filed by Democrats attempting to stop the audit claims that they do not.

There also was no commitment to disclosing who is paying for the audit. The Senate agreed to pay Cyber Ninjas \$150,000, but the costs of the audit will far exceed that. Bennet and Logan refused to say who is funding the audit and how much it is actually costing.

“It doesn’t matter who paid for it,” Bennett said.

Logan said that he will “seriously consider” revealing the sources of outside funds being funnelled in to pay for the audit but did not commit to reveal the sources, adding that he has purposefully made sure to not know.

At least \$150,000 is also coming from a “dark money” nonprofit created by journalists at One America News Network, a pro-Trump cable news network that has heavily promoted false claims of election fraud — including in Arizona.

Neither Bennett or Logan could answer questions about how much the audit will cost, only saying that it will last 16 days.

Auditors also plan to go out and canvass some neighborhoods and have already identified certain areas they want to target. The audit team has been working with unidentified “statisticians,” who Logan are not affiliated with Cyber Ninjas or its subcontractors. He said they have identified some areas they “are concerned about.”

Logan said the statisticians would be identified in the final report and their work would be able to be peer-reviewed then.

Auditors are also planning to do signature verification of ballots, but do not have the envelopes that early ballots were mailed in to county elections officials. When early ballots arrive at the county elections department, workers verify the signature, then separate the ballot from the envelope, making it impossible to link any particular ballot to the envelope it came in.

“The Senate is reserving the right to request the envelopes,” Bennett said.

TAGS2020 electionconspiracy theoryCyber NinjasDavid BodneyDoug Loganelection fraudJoe BidenKaren FannKen BennettThe Big LieWake Technology Services

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*Jerod MacDonald-Evoy is a reporter for the Arizona Mirror, a non-profit news organization.*

# **Exhibit 7**





# Senate GOP won't commit to letting reporters cover its election audit

*Reporters must work 30 hours as audit volunteers to cover the election audit*

By **Jeremy Duda** - April 22, 2021

As the Arizona Senate prepared to begin its election audit on Friday, it was unclear whether Senate Republicans would permit journalists to cover the unprecedented event except under severe restrictions that would seriously limit their ability to do their jobs.

Senate President Karen Fann said Wednesday evening that her audit team was revising its media policy, which previously only permitted journalists into Veterans Memorial Coliseum, where the audit is taking place, if they signed up to work as volunteer observers and agreed to follow rules prohibiting them from taking photographs, using recording devices or even taking notes with pen and paper during their six-hour shifts.

The original plan called for journalists to commit to 30 hours of volunteering.

THE MORNING NEWSLETTER

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After Fann met with her audit team for about 90 minutes Wednesday, she wouldn't say with certainty that the rule would be rescinded. She said the audit team was drafting a new policy and that she would have to see what they came up with.

"Obviously, we want full transparency. Obviously, we want to be accommodating. But we also need to make sure that the security of the ballots, the equipment, the workers, that's number one important. So, whatever they work out," said Fann, a Prescott Republican.

When Judge Timothy Thomason **ruled that the Maricopa County Board of Supervisors must abide by subpoenas** that Fann issued for ballots, tabulation machines and other materials from the 2020 general election in Maricopa County, he wrote that Senate Republicans "are obligated (to) maintain confidentiality of the materials turned over to them" and they, like any other government official, are obligated to prevent the disclosure of statutorily protected information to the public.

It's unclear exactly what information could be jeopardized if journalists have greater access to the audit floor. Ballots are **devoid of information that could be used to identify the voters** who cast them.





Fann also stressed that she wouldn't permit reporters to come and go at will, and that they would have to be in designated places at designated times, coordinated with security, to protect the security and identities of the audit workers.

Earlier this week, former Secretary of State Ken Bennett, who is serving as Fann's spokesman and liaison for the audit, told journalists that they would be able to cover the audit from a distance in the stadium's stands. On Wednesday, Bennett said that option would no longer be available, and that journalists would instead have to sign up as observers. He initially said they would have to commit to at least five shifts, but later said that would likely be scaled back to one six-hour shift.

Nonetheless, the requirement would effectively mean that journalists could only report on the audit if they agree to participate in it, a conflict with the ethics policies of many journalistic organizations, including the *Arizona Mirror*. And their ability to actually report on the events would be severely limited.

Bennett said the rules were established by himself, Fann and members of the audit team. The audit team is led by Doug Logan, who [spread debunked conspiracy theories about the election](#) and tried to [help U.S. senators overturn Joe Biden's victory](#) over Donald Trump.

"We had hours of conversation about how are we going to keep cameras from zooming in on ballots and all kinds of stuff. We just came to the conclusion the best way to allow reporters is to let them be in the observer corps and write your story right afterwards," Bennett said.

Bennett noted that journalists, along with other members of the public, are also able to observe the audit through an [internet livestream](#) that was set up by the pro-Trump One America News Network, which has spent months promoting false information about the 2020 elections, [including in Arizona](#). One of the network's anchors, who has [spread baseless lies about election fraud in Arizona](#), spearheaded a group that reportedly [raised more than \\$150,000 from Trump supporters](#) to pay for the audit.

Dan Barr, a First Amendment and media attorney with the law firm Perkins Coie, said the rules constitute an unreasonable restriction on press freedoms.

"When you step back and look at it, it's just beyond the looking glass," he said.

Barr said it might be reasonable to impose some restrictions on reporters covering the audit, such as limiting their ability to photograph ballots or notes taken by the people counting them. The Senate can require reporters to abide by the same requirements as other observers in that respect, he said, but it's "ridiculous" to make them participate as official observers. He also questioned why reporters would be barred from taking notes while observing, given the nature of their jobs.

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The online sign-up sheet for observers requires prospective volunteers to provide their names and email addresses, along with three letters of recommendation. It also asks for, but doesn't appear to require, information about voter registration. An email to members of Arizona's press corps asks journalists who are interested in observing to email the audit team directly, rather than sign up through the website.

During [a recent audit of ballot tabulation machines](#) that the Maricopa County Board of Supervisors commissioned, journalists were permitted to attend in person and observe from behind a window that separated them from the auditors. Megan Gilbertson, a spokeswoman for the county elections



department, said that was to protect proprietary information and mechanisms inside the machines while the auditors had them open.



Journalists are also permitted to observe statutorily mandated recounts of ballots under similar circumstances, Gilbertson said.

**\*\*\*UPDATE:** *The headline on this story has been updated for accuracy.*

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### **Jeremy Duda**

Associate Editor Jeremy Duda is a Phoenix native and began his career in journalism in 2003 after graduating from the University of Arizona. Prior to joining the Arizona Mirror, he worked at the Arizona Capitol Times, where he spent eight years covering the Governor's Office and two years as editor of the Yellow Sheet Report. Before that, he wrote for the Hobbs News-Sun of Hobbs, NM, and the Daily Herald of Provo, Utah. Jeremy is also the author of the history book "If This Be Treason: the American Rogues and Rebels Who Walked the Line Between Dissent and Betrayal."



# **Exhibit 8**

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From: Bo Dul <[bdul@azsos.gov](mailto:bdul@azsos.gov)>  
Sent: Wednesday, April 21, 2021 1:42 PM  
To: [kbazos@gmail.com](mailto:kbazos@gmail.com)  
Cc: '[kfann@azleg.gov](mailto:kfann@azleg.gov)'; [arizonaaudit@gmail.com](mailto:arizonaaudit@gmail.com)  
Subject: Senate/Cyber Ninjas Audit - Observers

Importance: High

Dear Mr. Bennett,

I hope this message finds you well.

I am writing regarding observer access to the Senate/Cyber Ninjas audit that we now understand, based on media reports, is scheduled to begin on Friday, April 23.

As Secretary Hobbs detailed in her March 3, 2021 letter to President Fann and Senator Petersen, it is imperative that any audit be conducted pursuant to clear procedures that ensure transparency and accuracy, including, among many other measures, allowing the Secretary of State's Office to designate observers for every step of the audit. To date, the Secretary has received no response to her letter and continues to have grave concerns regarding the lack of transparency and the lack of established and publicly disclosed procedures. Recent developments regarding the restrictions on observers only further our concerns.

To date, we have been informed that the only observers who are permitted to view the audit are (1) Maricopa County residents ("voter observers") and (2) members of the press ("media observers"). Further, from what we understand, although no formal observer policy has been made available, these observers will only be permitted to observe in six-hour shifts and may not bring any recording devices or pen/pencil. Therefore, no observer will have the opportunity to observe all aspects of the audit over the course of the entire audit and the media will be severely hindered in their ability to report on what little they are able to observe.

To allow for even a minimal level of transparency and credibility, the Secretary of State's Office is urging you to ease your restrictions on media observers and to allow the Secretary of State's Office as well as national nonpartisan organizations to designate a third category of observers—those with expertise in post-election audits and election administration/technology—to observe throughout the duration of the audit process. We believe it is imperative for transparency and voter-confidence that observers with this specific expertise be permitted to view all aspects of the audit from start to finish. Therefore, the Secretary and national nonpartisan organizations should be permitted to send a small group (3-5) of individuals to be present through the whole audit as expert observers. To be clear, these observers will not interfere with the audit or provide advice or comment. Rather, they will simply observe.

Allowing expert and national observers to ensure transparency during this audit would be a step in the right direction. Therefore, I am submitting this request directly to you and hope to have the opportunity to speak with you about the details as soon as possible. I can be available for a call at your earliest convenience. Thank you in advance for your attention to this important matter.

Sincerely,

Bo



Sambo (Bo) Dul  
State Elections Director  
Arizona Secretary of State

Email: [bdul@azsos.gov](mailto:bdul@azsos.gov)  
Office: 602-542-8683

1700 W. Washington St., 7<sup>th</sup> Fl. | Phoenix, AZ | 85007

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# **Exhibit 9**



---

From: Bo Dul <[bdul@azsos.gov](mailto:bdul@azsos.gov)>  
Sent: Wednesday, April 21, 2021 3:13 PM  
To: [info@arizonaaudit.com](mailto:info@arizonaaudit.com)  
Cc: [kbazos@gmail.com](mailto:kbazos@gmail.com)  
Subject: FW: Senate/Cyber Ninjas Audit - Observers  
Attachments: Fann Letter 3\_3\_2021.pdf

Importance: High

Ken –

Per our discussion just now, I'm forwarding the email below to the new email address. I've also attached the Secretary's March 3, 2021 letter per your request. Please let me know if you need any additional information.

Best,

Bo

---

From: Bo Dul  
Sent: Wednesday, April 21, 2021 1:42 PM  
To: [kbazos@gmail.com](mailto:kbazos@gmail.com)  
Cc: '[kfann@azleg.gov](mailto:kfann@azleg.gov)' <[kfann@azleg.gov](mailto:kfann@azleg.gov)>; [arizonaaudit@gmail.com](mailto:arizonaaudit@gmail.com)  
Subject: Senate/Cyber Ninjas Audit - Observers  
Importance: High

Dear Mr. Bennett,

I hope this message finds you well.

I am writing regarding observer access to the Senate/Cyber Ninjas audit that we now understand, based on media reports, is scheduled to begin on Friday, April 23.

As Secretary Hobbs detailed in her March 3, 2021 letter to President Fann and Senator Petersen, it is imperative that any audit be conducted pursuant to clear procedures that ensure transparency and accuracy, including, among many other measures, allowing the Secretary of State's Office to designate observers for every step of the audit. To date, the Secretary has received no response to her letter and continues to have grave concerns regarding the lack of transparency and the lack of established and publicly disclosed procedures. Recent developments regarding the restrictions on observers only further our concerns.

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Sincerely,

Bo



Sambo (Bo) Dul  
State Elections Director  
Arizona Secretary of State

Email: [bdul@azsos.gov](mailto:bdul@azsos.gov)  
Office: 602-542-8683

1700 W. Washington St., 7<sup>th</sup> Fl. | Phoenix, AZ | 85007

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**KATIE HOBBS**  
SECRETARY OF STATE

March 3, 2021

VIA EMAIL ONLY

Senate President Karen Fann  
Senator Warren Petersen  
1700 W. Washington  
Phoenix, AZ 85007  
[kfann@azleg.gov](mailto:kfann@azleg.gov)  
[wpetersen@azleg.gov](mailto:wpetersen@azleg.gov)

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;<sup>1</sup>
- Develop and implement procedures to ensure the physical security of the ballots<sup>2</sup> and physical, data, and cyber security of election equipment,<sup>3</sup> 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 parties<sup>4</sup> and only conducted under camera with a live video feed and that the video footage is retained for 24 months;<sup>5</sup>
- 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;

---

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

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

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

<sup>4</sup> See Elections Procedures Manual ch. 10 and statutory provisions cited therein.

<sup>5</sup> 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.<sup>6</sup>

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 Baker<sup>7</sup> 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.

---

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

<sup>7</sup> 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 read 'KH', with a long horizontal flourish extending to the right.

Katie Hobbs  
Arizona Secretary of State

cc:

Senate Minority Leader Rebecca Rios: [rrios@azleg.gov](mailto:rrios@azleg.gov)  
Senator Martin Quezada, Ranking Member, Judiciary: [mquezada@azleg.gov](mailto:mquezada@azleg.gov)

Maricopa County Board of Supervisors:  
Jack Sellers, District 1, Chair: [Jack.Sellers@maricopa.gov](mailto:Jack.Sellers@maricopa.gov)  
Steve Chucri, District 2: [Steve.Chucri@maricopa.gov](mailto:Steve.Chucri@maricopa.gov)  
Bill Gates, District 3: [Bill.Gates@maricopa.gov](mailto:Bill.Gates@maricopa.gov)  
Clint Hickman, District 4: [Clint.Hickman@maricopa.gov](mailto:Clint.Hickman@maricopa.gov)  
Steve Gallardo, District 5: [Steve.Gallardo@maricopa.gov](mailto:Steve.Gallardo@maricopa.gov)

Scott Jarrett, Director of Election Day and Emergency Voting,  
Maricopa County Elections Department: [sjarrett@risc.maricopa.gov](mailto:sjarrett@risc.maricopa.gov)

# **Exhibit 10**

---

From: Bo Dul <[bdul@azsos.gov](mailto:bdul@azsos.gov)>  
Sent: Thursday, April 22, 2021 9:50 AM  
To: [info@arizonaaudit.com](mailto:info@arizonaaudit.com)  
Cc: [kbazos@gmail.com](mailto:kbazos@gmail.com)  
Subject: RE: Senate/Cyber Ninjas Audit - Observers

Good morning, Ken – I am following up on the request below and would appreciate any response you can provide as soon as possible. Thank you, Bo

---

From: Bo Dul  
Sent: Wednesday, April 21, 2021 3:13 PM  
To: [info@arizonaaudit.com](mailto:info@arizonaaudit.com)  
Cc: [kbazos@gmail.com](mailto:kbazos@gmail.com)  
Subject: FW: Senate/Cyber Ninjas Audit - Observers  
Importance: High

Ken –

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Best,

Bo

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From: Bo Dul  
Sent: Wednesday, April 21, 2021 1:42 PM  
To: [kbazos@gmail.com](mailto:kbazos@gmail.com)  
Cc: 'kfann@azleg.gov' <[kfann@azleg.gov](mailto:kfann@azleg.gov)>; [arizonaaudit@gmail.com](mailto:arizonaaudit@gmail.com)  
Subject: Senate/Cyber Ninjas Audit - Observers  
Importance: High

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Sincerely,

Bo



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State Elections Director  
Arizona Secretary of State

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Office: 602-542-8683

1700 W. Washington St., 7<sup>th</sup> Fl. | Phoenix, AZ | 85007

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# **Exhibit 11**

[https://www.azfamily.com/news/investigations/cbs\\_5\\_investigates/security-lapses-plague-arizona-senate-election-audit-at-state-fairgrounds/article\\_b499aee8-a3ed-11eb-8f94-bfc2918c6cc9.html](https://www.azfamily.com/news/investigations/cbs_5_investigates/security-lapses-plague-arizona-senate-election-audit-at-state-fairgrounds/article_b499aee8-a3ed-11eb-8f94-bfc2918c6cc9.html)

ARIZONA'S FAMILY INVESTIGATES

## Security lapses plague Arizona Senate's election audit at State Fairgrounds

MORGAN LOEW

UPDATED APR 28, 2021

**PHOENIX (3TV/CBS 5)** - Arizona Senate election audit officials refused to address a series of security lapses and problems exposed by Arizona's Family Investigates, the night before the controversial recount was to begin.

"I question why security wasn't already in place," said Karl de la Guerra, who is a protective services consultant with 43 years in the industry. De la Guerra was reacting to a video sent to him by Arizona's Family Investigates. The video exposed a lack of security at the Arizona Veteran's Memorial Coliseum, the audit location. State Senate Republicans are performing the audit, but doing so on a shoe-string budget. And critics argue that the company hired to lead the operation is run by a Trump supporter who had tweeted false conspiracy theories about the election.

"I think the fact of the matter is that there have been numerous legitimate audits that have shown that there were no discrepancies," said Sen. Rebecca Rios, who is the leading Democrat in the state Senate.

After watching the video shot by Arizona's Family Investigates, Rios said the audit should be called off. "I don't know how



The people running this audit are supposed to ensure that the Veterans Memorial Coliseum, where the auditing and counting is happening is secure.

(Source: 3TV/CBS 5)

people walk away feeling comfortable about what is going on. We have asked repeatedly, 'What is the plan? What is the plan for security?'" said Rios.



County supervisor, Democrats file injunction to stop GOP audit of Arizona election results

At issue is the security of Maricopa County's election equipment and every ballot cast in the 2020 general election. A judge ordered county elections officials to turn everything over to Senate Republicans for the audit. The equipment and ballots had been held in the county facility known as "The Vault," because security is so tight. But Senate President Karen Fann chose the coliseum for the audit, which is not considered a secure location. "It is a very, very porous, what we call, 'Soft target public venue,'" said de la Guerra.

Added to the challenges of securing the location is the cost. Maricopa County Sheriff's Office officials estimated it would have cost the county \$175,000 for security alone, if the sheriff's office would have agreed to protect the site. Sheriff Paul Penzone declined, citing the cost and the effect taking those deputies off the street would have on public safety.

**📄 Maricopa County delivering ballots, equipment for election audit**



The total amount of money Fann has dedicated to the audit is \$150,000. That is taxpayer money, but it is supposed to cover the facility expenses, four auditing companies, as well as security. Contractors are accepting private donations, although the audit officials refused to reveal how much they have taken in and from whom.

The contract between Senate Republicans and the audit companies states that the companies are responsible for security. The audit's Twitter page stated, "Please be assured that a robust security plan is in place to protect the ballots, equipment, workers and volunteer observers."



Arizona Senate will conduct audit at state fairgrounds

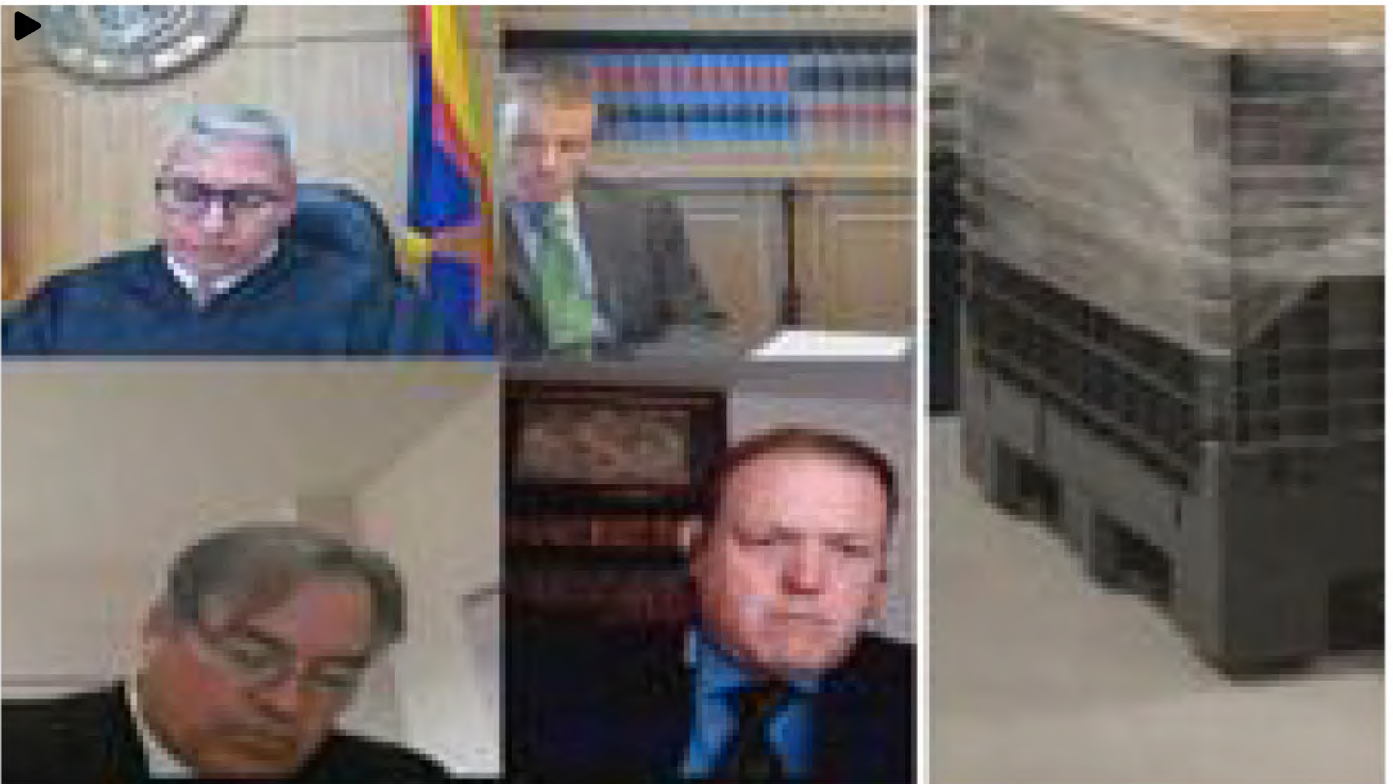
But on Monday, Tuesday, Wednesday and Thursday, the Arizona's Family Investigates team gained access to the coliseum, its hallways, staircases and the main floor, where the computer equipment will be used by the auditors. The team was able to get close to the actual ballots and county computer equipment. At no time did anyone at the site ask the team to leave. At no time did the team enter through any doorway or entry that contained a "No Trespassing" or "Restricted Access" sign.

---

***Morgan Loew's hard-hitting investigations can be seen weekdays on CBS 5 News at 6:30 p.m. and 10 p.m.***



Arizona Secretary of State Katie Hobbs calls for investigation into election audit security lapses



Temporary pause to Arizona election audit won't happen after Dems won't post \$1M bond

#### MORE INFORMATION



Twitter post accuses Arizona Rep. Grantham making racist comment during voting bill debate

Former President Trump wants Gov. Ducey to 'provide large-scale security' for election audit

Arizona AG rejects official's call for probe of voting audit

Election conspiracies live on with audit by Arizona GOP

Morgan Loew

CBS 5 Investigative Reporter

Morgan Loew is an investigative reporter at CBS 5 News. **Read more** about Morgan.





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**The AZ - abc15 - Data Guru** @Garrett\_Archer · Apr 22

I'm in the Coliseum. No one was manning the metal detectors, so we just walked in.

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**EFREN!!!** @EfrenBlackjack · Apr 22

Replying to @Garrett\_Archer

1

**Scorpions still suck** @hatenscorpions · Apr 22

Replying to @Garrett\_Archer

That's quite some security for sensitive materials.

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**Rusty Shackelford** @RsTshackelford · Apr 22

Replying to @Garrett\_Archer



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**Ruben Gallego** @RubenGallego · Apr 24

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# **Exhibit 12**



## Arizona Senate audit gets off to shaky start, with rules finalized on the fly

[Jen Fifield](#), Arizona Republic Published 6:29 p.m. MT April 23, 2021 | Updated 10:01 p.m. MT April 23, 2021

The Arizona Senate Republicans' hand count of all 2.1 million Maricopa County ballots cast in November's presidential election got off to a shaky start on Friday morning.

Procedures seemed to be finalized on the spot, and a few significant changes were made during the day as the Senate's contractors started the recount at the Arizona Veterans Memorial Coliseum.

The changes included:

- What [color ink pens are allowed on the audit floor](/story/news/politics/elections/2021/04/23/why-arizona-election-law-specific-ink-color-used-ballots/7356330002/) as ballots are being counted, which matters because a counter using blue ink could alter a ballot, confusing the voter's intent.
- How the ballots were tracked after being taken out of their secure holding area on the floor, which could affect the chain of custody.
- And how the counters and observers communicated throughout the process.

The audit got off to a late start after the morning was spent seeing that the computer software was programmed correctly to review the ballots, that forms had the correct fields for ballot trackers to fill out, and that the ballot counters and supervisors were trained.



Counters had made it through about 150 ballots by about 1 p.m. and were still working on their first box. There are 46 pallets of boxes and 1,691 boxes of ballots, although some of the boxes do not have ballots in them, said Megan Gilbertson, spokesperson for the Maricopa County Elections Department.

The Senate only has so long to complete the complete recount — they have rented the coliseum until May 14. Along with the recount, auditors are examining voting machines and attempting to verify voter information.

Ken Bennett, the Senate's appointed liaison for the audit and former secretary of state, said on the audit floor that he saw a few ways to improve the process, but that he was not in charge. He said that Cyber Ninjas, the group the Senate hired to perform the work, and their contractors had decided on how the audit would be run.

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---

No county staff was on hand to explain how ballots were stored or how voting machines were programmed.

Journalists were denied specific access to report or record the process, although The Arizona Republic and other media outlets have joined together seeking their reporters' immediate access to the coliseum to observe the audit of the ballots and tabulating equipment. For now, this reporter signed up as a volunteer observer to gain at least that access, working a six-hour shift on Friday.

## Lack of procedures concerns Democratic Party

The lack of clear procedures and controls on Friday caused even more concern from the Arizona Democratic Party and Maricopa County Supervisor Steve Gallardo, who had filed a last-minute lawsuit in Maricopa County Superior Court on Thursday night attempting to stop the audit.



Former Arizona Secretary of State Ken Bennett (left) takes custody of a pallet of ballots before an audit of the 2.1 million election ballots at Veterans Memorial Coliseum in Phoenix on April 22, 2021. (Photo: Patrick Breen/The Republic)

"The Senate has told us that they're running this so-called audit," Roopali Desai, a lawyer for the Democratic Party, and Gallardo told the judge on Friday. "They have abdicated their duty entirely to rogue actors who are making a mockery, with all due respect, of our election laws and procedures and there are no safeguards in place. There's no proper training. No procedures. No rules."



The concerns prompted a Maricopa County Superior Court judge to issue an injunction stopping the audit until Monday, but only if the Democratic Party would post a \$1 million bond to cover the potential costs of the delay. The party said Friday it would not pay and the recount continued.

The lawsuit is the latest attempt to try to stop the Senate from conducting the audit after the Senate finally had taken control of the ballots and voting machines after a months-long fight with the Maricopa County Board of Supervisors.

The county already had done multiple audits of the election results, including a hand count of a statistically significant number of ballots and multiple audits of voting machines. All of the audits came back clean, showing that votes were counted correctly.

## Procedures under scrutiny

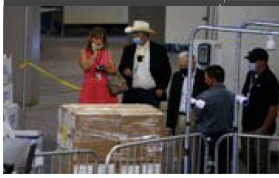
One major issue came up as the contractors began to unpack the boxes: The Senate's contractors had programmed its software and developed its procedures believing that they would be dealing with batches of a certain amount of ballots and that boxes would be grouped in a certain way.

Gilbertson said that while early ballots are delivered in batches, Election Day ballots are not, and the number of ballots in each batch differs.

A few other procedures stuck out as differing from the way that Maricopa County completes its audit and the way that is outlined in Arizona state election law.

The first was regarding the color of pens on the audit floor.

**Blue ink, black ink, red ink:** [Why ink color matters when handling Arizona ballots \(/story/news/politics/elections/2021/04/23/why-arizona-election-law-specific-ink-color-used-ballots/7356330002/\)](https://www.azcentral.com/story/news/politics/elections/2021/04/23/why-arizona-election-law-specific-ink-color-used-ballots/7356330002/)



**Pallets of election ballots wait to be moved to respective areas before an audit of the 2.1 million election ballots at Veterans Memorial Coliseum in Phoenix on April 22, 2021. (Photo: Patrick Breen/The Republic)**

State election law says that ballot counters may not bring any black pens or blue pens into the designated location of the hand count. But when counters arrived on Friday, a blue and red pen was waiting at each of their spots, and other blue pens were seen throughout the auditing floor, including near where the ballots would be scanned.

The Republic questioned Doug Logan, the CEO of Cyber Ninjas, who initially said his understanding was that blue ink was fine. After checking further, Logan had the blue pens removed and replaced them with green pens before any real ballots were taken out of the boxes.

Logan also said before the audit began that they did not ensure that each counting board of three people had bipartisan representation. This is a practice with Maricopa County hand counts, which are run by the political parties themselves.

He told volunteer observers that he was counting on them to watch closely to ensure that the counters were counting ballots correctly.

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Another practice that differed was the communication among the counters.

Three counters reviewed each ballot. As the first box of ballots was being counted, the counters were sometimes saying out loud which candidates they were marking votes for. They were also comparing the number of ballots that they had counted at certain times during the count.

Under Arizona election law, tallies should be documented independently and not compared until the end of each batch.

Bennett also questioned the way that the boxes of ballots were being tracked after they left their secure holding area. He said he thought there should have to be someone to sign off when a box reaches a certain table, and at every step of the process.

It's unclear what the final decisions were on some of the changes being made.

## Access issues by observers

Access issues also occurred Friday.

Observers were told to arrive at 7:30 a.m. but then did not get let through the coliseum gates until after 8 a.m., and some were turned away.

The people working at the gates said that because the Senate's observer sign-up sheet was disabled by Google, they lost some of the names of those who had volunteered.


And unlike at county election offices, where journalists are invited to photograph and film an audit process, reporters can't go inside unless they sign up to work six-hour shifts as observers. And observers can't have cameras or notepads of their own.

*Republic reporter Andrew Oxford contributed to this article.*

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