

Dear Arizona Republicans:

Let's do this right.

Let's build confidence. Let's move forward.

August 19, 2021

Stephen Richer

Maricopa County Recorder



I didn't want to be in the spotlight. Truly.

I ran on the platform of making the “Maricopa County Recorder's Office Boring Again.” I sought to competently, fairly, lawfully, and *quietly* manage the three duties of this office: public recordings, voter registration, and election administration.

To that end, I declined every media opportunity upon taking office on January 4 until May 14, 2021.

But I am human. If you prick me, I bleed. And if you consistently defame me and the people in my office, I eventually fight back. And that's exactly what happened. Beginning on May 14, I started speaking out—on Twitter, on national TV, on local TV, on national radio, on local radio, in published articles, at public hearings, and at public events. I've set the record straight about the 2020 election, the hardworking people of Maricopa County, and me.

I stand by everything I've said over the past three months. But prior to this report, I hadn't told my full story. If this is self-indulgent, forgive me. I largely agree, but many people have asked me why I'm doing what I'm doing, so here it is.¹

Section 1: The November 2020 Election Wasn't Stolen

Nobody stole Maricopa County's election. Elections in Maricopa County aren't rigged.

Governor Doug Ducey agrees.² Former Republican Governor Jan Brewer agrees.³ Republican Arizona Attorney General Mark Brnovich agrees,⁴ and his office has an election integrity unit that presumably receives all evidence of widespread fraud. Former Republican Recorder Helen Purcell agrees.⁵ Election directors in every other Arizona county agree. Former President Trump's Department of Justice agrees, including former U.S. Attorney General Bill Barr⁶ and former acting Attorney General Jeffrey Rosen.⁷ Trump's former director of the Cybersecurity and Infrastructure Agency, Chris Krebs, agrees.⁸ The attorney for the Trump campaign in

¹ “ALGERNON: Do you really keep a diary? I'd give anything to look at it. May I?”

CECILY: Oh no. [Puts her hand over it.] You see, it is simply a very young girl's record of her own thoughts and impressions, and consequently meant for publication. When it appears in volume form, I hope you will order a copy.” *The Importance of Being Earnest*.

² Howard Fischer. *Tucson.com*. November 25, 2020. [“Ducey finally acknowledges Biden victory in Arizona.”](#)

³ Brendan Cole. *Newsweek*. December 10, 2020. [“Ex-GOP Arizona Governor Says Republicans in a ‘Shambles’ over Post-Election Fraud Claims.”](#)

⁴ *Fox Business*. [“Joe Biden will win Arizona: AG Mark Brnovich.”](#)

⁵ Nicole Valdes. *ABC 15*. March 18, 2021. [“Former Maricopa County Recorder Helen Purcell shares Senate audit concerns over ballot ‘hand count.’”](#)

⁶ Michael Balsamo. *AP*. December 1, 2020. [“Disputing Trump, Barr says no widespread election fraud.”](#)

⁷ Devlin Barrett and Josh Dawsey. *The Washington Post*. July 31, 2021. [“Trump to acting AG, according to aide’s notes: ‘Just say the election was corrupt + leave the rest to me.’”](#)

⁸ Christopher Krebs. *The Washington Post*. December 1, 2020. [“Opinion: Trump fired me for saying this, but I’ll say it again: The election wasn’t rigged.”](#)

Arizona agrees; it was he who responsibly said in court, “we are not alleging fraud.”⁹ Even Sidney Powell herself—progenitor of so much of the Stop the Steal movement—now says that “no reasonable person” should believe the election was stolen.¹⁰

So too did the 14 courts who heard eight (8!) complaints against Maricopa County’s election.¹¹ All of those complaints failed, some even after appeal to the Arizona Supreme Court. Six complaints lost on their merits, only two lost on standing. The famed “Kraken” case that appeared before the Arizona federal district court lost on a 12(b)(6) motion, meaning the suit didn’t even rise to the level of *plausible*.¹² The attorneys who filed that case are still under investigation by the State Bar of Arizona.¹³ Those attorneys could meet a fate similar to Rudy Giuliani, who had his bar license suspended in New York and Washington D.C. for knowingly making “false and misleading” statements before court.¹⁴ Or the Stop the Steal attorneys might get slapped with sanctions, as happened to attorneys in Colorado who filed a Stop the Steal lawsuit that was deemed by the federal judge to be “one enormous conspiracy theory.”¹⁵

I assume that every Republican running for statewide office also agrees that the election wasn’t stolen. Why else would they invest time and money in a wholly fraudulent system? Even the notion of campaigning would seem absurd — “Hi. I’m running for statewide office. I believe the election system is wholly corrupt and your vote doesn’t matter. But please vote for me in the upcoming election.” Only former U.S. Senate candidate Daniel McCarthy has made this obvious logical leap. He believes the election system is rigged and therefore — very rationally if you accept the premise—said he won’t waste his time running in 2022.¹⁶

Section 1A: Maricopa County Elections And The November 2020 Election

County elections are administered by the Maricopa County Elections Department. That Department reports to both the five-member County Board of Supervisors and the County Recorder. The division of labor is governed both by state statute and by the “Elections Operating Agreement.” In rough terms, the Recorder is responsible for the voter registration

⁹ Jocelyn Grzezczak. *CNN.com*. November 12, 2020. [“Trump Campaign Lawyer Contradicts President in Court, Says, ‘We Are Not Alleging Fraud.’”](#)

¹⁰ Tom McCarthy. *The Guardian*. March 23, 2021. [“Pro-Trump lawyer says ‘no reasonable person’ would believe her election lies.”](#)

¹¹ Maricopa County Elections Department. [“Just The Facts—Additional Information tab.”](#)

¹² *Bowyer, et al. v. Ducey, et al.*, No. CV-20-02321-PHX-DJH (Dkt. 84). December 9, 2020. [Order](#).

¹³ *Yellow Sheet Report*. June 21, 2021. [“Disbarred Lawyers Make Great Lawyers.”](#)

¹⁴ Myah Ward. *Politico*. July 7, 2021. [“Rudy Giuliani suspended from practicing law in D.C., weeks after similar action in New York.”](#)

¹⁵ Jan Wolfe. *Reuters*. August 4, 2021. [“Lawyers sanctioned over ‘fantastical’ suit alleging 2020 U.S. election was stolen.”](#)

¹⁶ Maritz Dominguez. *AZ Central*. June 16, 2021. [“The Gaggles podcast: Daniel McCarthy on conservatism in Arizona.”](#)

database,¹⁷ mail voting, and administrative services (IT, finance, etc.). The Board of Supervisors is responsible for in-person voting and tabulation.

In November 2020, the Board of Supervisors consisted of four Republicans and one Democrat (the same is true today). The Recorder at the time was my predecessor and political opponent, Democrat Adrian Fontes. None of the six were allowed in the tabulation room at any point during the 27-day election period, as they were all candidates on the ballot.

Maricopa County has used the same tabulation vendor and ballot printer, and has had many of the same employees, for more than 20 years. This team oversaw Maricopa County's vote for Trump in 2016, for Mitt Romney in 2012, for John McCain in 2008, and for George W. Bush in 2004. It administered the election of the continued Republican control of the Arizona state legislature in 2020.

Through all these elections, there had never been a report of significant tabulation problems or widespread fraud. Hardly anyone had heard of Dominion prior to November.

Maricopa County's tabulation machines undergo a battery of federal, state, and county certifications and tests. The tabulation software and hardware used by Maricopa County are approved by the Maricopa County Board of Supervisors, the Arizona Secretary of State, and the United States Election Assistance Commission—a body that reported to Trump during his time in office. Maricopa County only uses certified hardware and software. Before each federal election, the Secretary of State conducts a "logic and accuracy test" to make sure the tabulation machines accurately read the votes. This consists of inserting stacks of pre-marked ballots into the machines and making sure the machines correctly tabulate the results. Prior to the November 2020 election, Maricopa County's tabulation machines performed this test with 100% accuracy.¹⁸

After the November 2020 election, appointees from the Republican, Democrat, and Libertarian parties worked in bipartisan groups of three to hand count more than 47,000 votes.¹⁹ Though the County facilitated the hand count, the political party appointees performed the actual counting, not staff of Maricopa County. Those hand-counted votes matched the machine count 100%. The County then ran another, post-election, logic and accuracy test to make sure the machines had not been disrupted in any manner during the election. The results again matched 100%.²⁰

Finally, in February 2021, the Maricopa County Board of Supervisors hired two professional elections technology companies with many years of experience in tabulation equipment to do *everything needed to*:

¹⁷ At approximately 2.6 million registered voters, Maricopa County is the second largest voting jurisdiction in the United States, behind only Los Angeles County.

¹⁸ Maricopa County. January 26, 2021. "[2020 Election Security & Accuracy](#)."

¹⁹ Maricopa County. January 26, 2021. "[2020 Election Security & Accuracy](#)."

²⁰ Maricopa County. January 26, 2021. "[2020 Election Security & Accuracy](#)."

- Analyze hacking vulnerabilities of both the tabulation hardware and software
- Verify that no malware had been installed on the tabulators
- Determine if the tabulators had connected to the internet at any point before, during, or after the election
- Assess if any vote switching had occurred as a result of the tabulators

The assessment took almost three weeks.²¹ We livestreamed the entire process, and we had representatives from the Arizona House, the Arizona Senate, and the Secretary of State's Office in regular attendance. Speaker Rusty Bowers of the Arizona House attended one day. Senate President Karen Fann did not attend.

I don't believe anyone who attended the audits and spoke with the auditors found them to be anything short of professional and thorough.

The auditors found no problems with the equipment, no manipulation of the software code, no malware, and no connection to the internet. Those reports are publicly available.²²

The exact same machines and software worked perfectly in seven previous elections—including the August 2020 primary that sent candidates onto the November 2020 general election. The County ran the statutorily required tests for each of those seven elections. They always confirmed accuracy. Nobody challenged the functionality of the equipment in those seven elections.

There are many other checks and securities in the system—some of which I wasn't aware of prior to taking office. I've attached a non-exhaustive, but thorough list in Appendix A. It includes video cameras, bipartisan teams, multiple layers of signature reviews, signature review audits, pre-election mailings, security badges, intelligent barcodes, and chain-of-custody forms.

We will continue to improve. But the measures already in place to ensure the integrity of the vote are more significant than I imagined prior to taking Office, and I suspect others were similarly unaware.

Section 1B: There Is A Simple, Data-Backed Explanation For Trump's Loss In Maricopa County

If you're an Arizona Republican, I feel your pain. I campaigned for Martha McSally in both 2018 and 2020, and she's somebody I like both as a person and a politician. We lost both times.

For Trump's 2020 campaign, I knocked on doors, I dropped off flyers, and I made phone calls. I bonded with, and campaigned alongside, Trump's Arizona team throughout 2020. I still count as friends people like Trump's amazing state director Drew S., all of the Trump guys in

²¹ Maricopa County. "[Auditing Elections Equipment in Maricopa County.](#)"

²² Maricopa County. "[Auditing Elections Equipment in Maricopa County.](#)"

legislative district 20 (Ben M., Justin B., and Sam Y.), Trump regional advocates like Sue H. (LD-13), Marcus H. (LD-15), Michelle R. (LD-15), Caroline C. (LD-18), Linda B. (LD-20), Robyn C. (LD-21), and Gene K. (LD-25). On Election Day, my parents (who aren't political, but are kind parents) and I spent all day passing out the items given to us by the Arizona Republican Party: waters, snacks, and pro-Trump literature. This was my team, and I was a committed member (more on this in Section 2).

But the truth is that the case isn't there. I spent November and December willing to wait for a meritorious lawsuit, a scientific claim, or convincing data. But it never came because it didn't exist.

What is there, is data showing that Trump's loss was built on disaffected Republican voters. This section isn't intended to be a thorough analysis of why Trump lost Maricopa County,²³ but the high-level explanation is straightforward. Using the cast vote record, elections experts Benny White, Larry Moore, and Tim Halvorsen have shown that 59,800 voters in Maricopa County cast a ballot for a majority of the Republicans on the ballot, but did *not* vote for Trump.²⁴ Of those, 39,102 voted for Biden. That number far outstripped the number of majority-Democrat voters who abandoned Biden.²⁵

Data analyst and elections expert Garrett Archer²⁶ mapped this phenomenon and found that "High-wealth precincts around Paradise Valley and the Arcadia area of Phoenix collectively had some of the highest percentages of committed Republican voters that did not vote for Donald Trump. Palo Cristi, a precinct adjacent to Camelback Mountain, was carried by Trump 55% to Biden's 44%, but 6.3% of voters who supported most other Republicans on the ballot did not back Trump."²⁷ Other spots of higher Republican disaffection include Scottsdale, Fountain Hills, Gilbert, and Queen Creek—the exact same spots that Republican data analysts warned about after McSally's 2018 loss and made Maricopa County a bellwether county for the whole country.

The data maps also show that there are no anomalous outliers on the Maricopa County. Suppose I could somehow inject 20,000 fraudulent ballots into the system (you can't simply inject ballots without creating a voter profile and getting a unique code—see Appendix A—but let's ignore that for the time being) that all marked Biden for president. This would produce an anomalous blue dot on the County map that could easily be spotted (for example if one precinct in Sun City West all of the sudden favored Biden amidst a sea of red). But the maps of Maricopa County voting show that there are no sudden, severe anomalies. And the maps of presidential votes in 2020 *almost exactly match* the Arizona map of 2016, except that it shifted

²³ Exactly the type of thing I would *like* the Republican Party to work on.

²⁴ Benny White, Larry Moore, Tim Halvorsen. August 3, 2021. "[Lessons from Maricopa County: Slow Facts versus Fast Lies in the Battle Against Disinformation.](#)"

²⁵ Benny White, Larry Moore, Tim Halvorsen. August 3, 2021. "[Lessons from Maricopa County: Slow Facts versus Fast Lies in the Battle Against Disinformation.](#)"

²⁶ And, I believe, Republican and former Republican operative.

²⁷ Garrett Archer. ABC 15. July 16, 2021. "[The other Arizona election audit.](#)"

slightly in favor of the Democrat.²⁸ As Archer wrote when comparing 2016 precinct data with the same from 2020, “Let’s talk about precinct anomalies in Maricopa County, or really the lack thereof... here they are side by side. There are no outliers between the two, not one anomalous precinct. Had tampering occurred on a systemic level, we would expect to see some difference between these two graphs.”

Everyone knows that Arizona had become a purple state prior to the 2020 election. Republican voter registrations surpassed registered Democrats by only a couple percent, and “others” accounted for a nearly equal third of all registrants. Prior to the 2020 election, Republicans held only a one seat margin in the state House, and Republicans lost multiple statewide races in 2018, including U.S. Senate, Secretary of State, and Superintendent of Public Instruction. With such a slim margin for error, only a minimal defection of otherwise solid Republicans was needed to tilt the County and state in Biden’s favor. Multiple prominent Republicans championed such defection and seemingly delivered.²⁹

I believe in the court system. I believe in facts and logic. I believe that Maricopa County has many safeguards against widespread fraud. I believe in the simple, straightforward, data-backed explanation that Trump lost many Republican voters in affluent areas.

Accordingly, I know Joe Biden won Maricopa County.

Section 2: Me, a RINO...?

For saying the above—something that in any other modern presidential election would have been unnoteworthy—many in the Arizona Republican Party have called me a RINO (Republican In Name Only), a Communist, or a traitor.

I’m incredibly amused thinking about what my college, graduate school, or law school friends would say if they heard I was being accused of not being “pro-market or conservative enough.”

I’ve been a limited government conservative my whole life. This first dawned on me in ninth grade when my class had to write in support or opposition of public funding for the arts. Every other student wrote in support. I said it was stupid for the government to subsidize any private entertainment activity—after all, the government didn’t pay me to play Starcraft.³⁰

In college, I wore a black armband for a week when noted conservative economist and philosopher Milton Friedman died. I founded the “Tulane Institute of Freedom” to support

²⁸ Twitter. @Garrett_Archer. April 1, 2021. [“Let’s talk about precinct anomalies in Maricopa County, or really the lack thereof. I took the 2016 precincts and using a combination of address points and spatial weighting I plugged them in to the 2020 precincts. This is an incredibly accurate way to fit previous results.”](#)

²⁹ Matt Galka. *Fox 10 Phoenix*. November 9, 2020. [“Prominent Republicans urged Arizonans to vote Biden in the run-up to 2020 election.”](#)

³⁰ Yes, I now realize there is a difference between art and computer games, but nuance wasn’t my strong suit as a 14-year-old (though I still hold the ultimate opinion). P.S. For the swarm!

right-of-center political events; I wrote my senior thesis in support of the Supreme Court's *Lochner* decision³¹ that challenged the Constitutionality of minimum wage and maximum hour laws; and I secured a spot as an honors fellow with the Intercollegiate Studies Institute—a storied organization promoting conservative ideas with college students.³²

I chose University of Chicago for both graduate school and law school because it had the reputation of being the most conservative-friendly of the top five schools, and because one of my intellectual idols, prominent conservative-libertarian legal scholar, Richard Epstein, encouraged me to attend University of Chicago. I took leadership roles at various points with the Chicago Law Federalist Society, the Edmund Burke Society, and Chicago Friends of Israel.

Prior to getting into business and law, I also paid professional respects to the conservative movement by working for the American Enterprise Institute, the Cato Institute, and the Washington Legal Foundation. Through those, and because of my personal interests, I've attended more events by Students for Liberty, America's Future Foundation, Federalist Society, Heritage Foundation, Mercatus Center, Manhattan Institute, Mises Institute, Conservative Political Action Conference (CPAC), etc. than I can possibly remember.

I've been very active in Republican Party politics since age 22 when, ironically, I volunteered for Rudy Giuliani's 2008 presidential campaign. I've since volunteered on at least 20 Republican campaigns and have donated to at least 40 Republican candidates. I've never donated to a Democrat. I voted for Trump.³³

By late 2018, the Arizona Republican Party *hated* my predecessor, Democrat Adrian Fontes. The Party asked if I'd be willing to put in the time and money needed to take out an incumbent. I did my own research, and I eventually came up with 48-pages for wanting to unseat Fontes, none of them having to do with fraud (which only appears *once* in my August 2020 report) or the integrity of Maricopa County employees.³⁴ So, I went for it. I put everything I had into unseating the incumbent as the Party wished. I didn't spend a single full night at home in over a year;³⁵ I haven't taken two consecutive days off in almost three years; I put \$125,000 of my own money into the campaign,³⁶ and I dramatically scaled down my time at my law firm before eventually departing fully.

³¹ *Wikipedia* (that invaluable resource to all law school students). "[Lochner v. New York](#)."

³² [ISI Honors Program](#).

³³ I only once before broken rank with Republican orthodoxy—on gay marriage. Together with Margaret Hoover and Paul Singer, I served as one of the founding directors of American Unity Fund, a 501(c)(4) and PAC meant to support pro-marriage equality Republican candidates. That position certainly put us in the minority for Republicans in 2010, but now gay marriage seems to have been largely embraced by the Party.

³⁴ Stephen Richer. August 15, 2020. "[Failure: Adrian Fontes' First Term as Recorder](#)."

³⁵ The most meaningful compliment I got during the campaign was when Supervisor Steve Chucuri called me the hardest working candidate of the cycle.

³⁶ I realize this pales in comparison to what some candidates are now personally investing for governor and U.S. Senator, but it was still a decent amount of money for a 34-year-old.

It worked. I won. Barely. I was one of only two Republicans out of all races in Maricopa County to unseat an incumbent Democrat.³⁷ Besides my opponent Fontes, only Sheriff Paul Penzone ran countywide as an incumbent Democrat. Penzone won by 226,207 votes.³⁸ Democrat Mark Kelly beat Republican Martha McSally for U.S. Senate in Maricopa County by 80,193 votes.³⁹ Biden got 45,109 more votes than did Trump in the County.⁴⁰

In sum, I have been a steadfast Republican, and—if you'll allow a florid expression—I was forged in the intellectual cauldron of the political right. I delivered the Arizona Republican Party one of its few gains in 2020.

I will keep fighting for conservatism, and there are many things I would do for the Republican candidate for President, but I won't lie about the election, and I will not unjustifiably turn my back on the employees of the Board of Supervisors, Recorder's Office, and Elections Department—my colleagues and friends. If this means you're going to call me a RINO, fine, but first show me your conservative and Republican credentials.

Section 3: With Friends Like These...

Despite my lifelong support for the conservative cause, I quickly became an enemy to many Republicans because of my lack of enthusiasm for the Stop the Steal movement. As mentioned before, I am driven by facts and logic, and the Stop the Steal movement has neither. I've of course received death threats, harassing emails and social media messages (so too has my wife, who isn't even political), and I've had people bang their fists and shoes (seriously) on my car windshield while I sat inside. I've had my looks criticized in every way imaginable (yes, people of the internet, I know I'm balding). I've been screamed at during many events, and I've been told I can "take my fake-Christian, Mormon-ass back to Utah" (I'm not LDS and never have been, but I am from Utah, and I consider the confusion a high compliment).

All by my fellow Republicans.

None of that bothered me much. I considered myself lucky that my treatment was bland in comparison to the harassment campaigns targeted at the Board of Supervisors, Speaker Rusty Bowers, and Senator Paul Boyer (six out of the seven of whom are Republicans).

More disappointing was that some fellow Republican office holders—people I campaigned for and alongside—*encouraged* this type of harassment.

³⁷ The other was state representative Joel John in legislative district four (Buckeye) who got second of the three candidates, behind incumbent minority whip Charlene Fernandez, but ahead of, and unseating, incumbent Geraldine Peten.

³⁸ Maricopa County. ["Final Official Results, General Election, November 3, 2020."](#)

³⁹ Maricopa County. ["Final Official Results, General Election, November 3, 2020."](#)

⁴⁰ Maricopa County. ["Final Official Results, General Election, November 3, 2020."](#)

On my seventh day of office, Tuesday, January 12, I received a subpoena at 4:00 PM—without any notice—demanding my appearance the next morning at the Arizona Senate together with the Board of Supervisors and the County Treasurer.⁴¹ Elected Republicans took to social media to alert the Stop the Steal crowd that it was these subpoenaed people who were resisting the examination of a stolen election. That alert led to death threats, which led to my first-ever car ride with a security detail.⁴² I'd instructed my Office to comply with all terms of the subpoena, and even though we produced almost all of the materials sought from us within 72-hours of the subpoena, I had officially been branded an enemy, and therefore I was seemingly fair game for harassment and threats (and so too my wife).

Another memorable, Republican legislator-promoted, incident occurred in early March when a troubled woman⁴³—who, among other theories, believed that ballots had been flown into Maricopa County from South Korea—accused me and my office of shredding tabulated ballots from the November election.⁴⁴ Multiple Republican state legislators quickly joined in, giving the accusation a veneer of credibility.⁴⁵ It seemed that these legislators were willing to ignore the facts: that the accuser had a history of outlandish accusations, that the warehouse where the accuser had supposedly gained access wasn't even where we kept the ballots, that the actual ballots were under 24/7 video surveillance, that the ballots were in a room that only three people could access, that the accuser was remarkably unwilling to share her "evidence" with law enforcement, and that the allegedly destroyed ballots were for an election I had no part in running and would have presumably been part of a cover up for my political opponent whom I'd spent the last year criticizing.

This obsessive desire to find election fraud reached new heights when some past and present state legislators were willing to theorize that a fire at Hickman's Family Farms that killed 165,000 hens was somehow connected to the shredding of ballots and the theft of the election.⁴⁶ Then, in a phone call, ironically taped and released by the accuser herself, state Senator Sonny Borrelli told the accuser that she shouldn't comply with the law by turning over

⁴¹ Howard Fischer. *Tucson.com*. January 14, 2021. "[Judge isn't ordering election materials over to Arizona senators, at least for now.](#)"

⁴² For this service, and for everything else they have done to keep me and my team safe, I am eternally grateful to the Maricopa County Sheriff's Office.

⁴³ It has recently come to light that this woman was perhaps manipulated by local and national politicians wanting to advance the Stop the Steal campaign. She now questions everything about the Stop the Steal campaign and regrets many of her statements. Sadly, she is now in financial turmoil as a result of Stop the Steal, and she fears her former Stop the Steal allies seek to physical harm her. I wish she hadn't caused commotion for my Office, but I am very sympathetic to her current situation, and I wish for her safety and that her life can return to normal. Rachel Leingang and Hank Stephenson. *Arizona Agenda*. August 17, 2021. "[She spread election conspiracies. It ruined her life.](#)"

⁴⁴ Jeremy Duda. *AZ Mirror*. March 11, 2021. "[Top GOP senator: Shredded ballots will 'evaporate' if given to the AG.](#)"

⁴⁵ Jeremy Duda. *Pinal Central*. March 11, 2021. "[GOP senator tells Pinal woman not to give 'shredded' ballots to AG.](#)"

⁴⁶ *Yellow Sheet Report*. May 6. "[We Tried, Jill, We Tried.](#)" Bill McCarthy. *PolitiFact*. May 25, 2021. "[Fowl play? Social media users falsely claim Arizona ballots were destroyed in chicken farm fire.](#)" Bethania Palma. *Snopes*. May 19, 2021. "[No, Maricopa County Ballots Weren't Destroyed in a Chicken Farm Fire.](#)"

the “evidence” to law enforcement, but should instead give it to him, Borrelli, because only he knew what could be done. In that call, Borrelli said he would put the Board of Supervisors in jail if he could, but that the Board of Supervisors might have a plan to kill Borrelli—to “whack me out” or fake his suicide.⁴⁷ For good measure, he also labeled both me and County Treasurer John Allen as cowards.⁴⁸ Senator Fann promised an apology to the County officials and discipline for Borrelli.⁴⁹ That apology never came and Borrelli is still Senate Whip.

Only Senator Kelly Townsend seemed to pause and think “maybe we shouldn’t rush to hang our fellow Republican who wasn’t even in office for the November 2020 election.” She hurried to the elections facility and filmed a short video showing where the tabulated ballots were securely kept under lock and video—not where the troubled accuser had thought they were kept.⁵⁰ Townsend’s efforts helped clear confusion for many, and I am grateful.

My attitude changed from flabbergasted to angered when I found out that multiple Republican state legislators had asked the Arizona Attorney General to criminally investigate the alleged shredding.⁵¹ That meant I had to begin prepping voter registration employees for possible examination by a criminal prosecutor. These employees are good people. They do their jobs; they work hard, and at night they watch TV or enjoy time with their families. In short, they’re normal Arizonans. Never in a million years would they have imagined being examined by a criminal prosecutor. Some of these employees worked for entire weeks with little sleep during the November election. Some of these employees make humble salaries. They didn’t sign up for this nonsense and harassment, and they don’t deserve it. And yet, it happened, because multiple state Senators put stock in the baseless accusation of one dumpster diver person. Insult me all you want, but don’t subject normal Arizonans to this madness.

The ballot-shredding-chicken-burning incident took some weeks to die, but by April I thought I could go back to being a boring office, at least until the Cyber Ninjas produced their final report.

Unfortunately, it didn’t work out that way. Rather than wait until the release of a final report as promised, the Cyber Ninjas leaked out their accusations through their anonymously operated Twitter account. That brings me to the event that precipitated my public criticism of Senator Fann’s audit,⁵² and the Stop the Steal movement. For any Republicans who don’t like my involvement in this process, remember that it was a defamatory Tweet that brought me into the battle. I didn’t attack first.

⁴⁷ Jeremy Duda. *AZ Mirror*. March 11, 2021. [“Top GOP senator: Shredded ballots will ‘evaporate’ if given to the AG.”](#)

⁴⁸ I’d only had one interaction with Senator Borrelli. It was pleasant. I thought he liked me. Shucks.

⁴⁹ *Yellow Sheet Report*. March 12, 2021. [“There’s The Karen We Know And Love.”](#)

⁵⁰ *Yellow Sheet Report*. March 8, 2021. [“Townsend, The Voice Of Reason.”](#)

⁵¹ Twitter. @Fannkfann. March 7, 2021. [“I have already contacted someone at the AG’s office and asked for immediate investigation. I will follow up tomorrow.”](#)

⁵² I often call it “Fann’s audit” because it has never been voted on by the Senate, and were that to happen today, it would fail by multiple votes.

That defamatory Tweet came on May 12 when the audit's Twitter account wrote:

"Breaking Update: Maricopa County deleted a directory full of election databases from the 2020 election cycle days before the election equipment was delivered to the audit. This is spoliation of evidence!"

It's my IT team that oversaw the maintenance of election databases, and my newly-hired IT director who oversaw the compilation and transfer of the information. "Spoliation of evidence" is a legal term that was comically inapplicable to the situation, but the gist of the accusation is clear: that my team broke the law.

That Tweet—fired off in the evening—set my phone buzzing. Some people wanted answers. Some people demanded their campaign donations back. Some people wanted to leave messages like (one of the many I saved): "Stephen Richer, you lying ass... that is fucking cheating, do you understand now, you're a stupid son of a bitch."⁵³

I texted Senator Fann—whom I'd met on two or three occasions previously and had no reason to think ill of—and that led to the following conversation:

SR: Hi Karen! Hope you're doing well. I can get you an answer to this, but I'm a little surprised that the twitter account would say I'm destroying evidence (presumably of Adrian's wrongdoing) before asking me to look into it. My office is in charge of the voter registration database.

(I pasted an image of the Tweet)

KF: Have no idea what Twitter you are taking [sic] about. I've never accused you of anything particularly because this all happened before you.

SR: I know you haven't. But this tweet says that the data was deleted days before the audit. Which is during my tenure of course. And I just would have hoped that I could have received a phone call to talk through this before such an inflammatory post.

KF: I went through thru the channels with jack sellers. I do not know what the tweet is about. Can you help us with the answers please?

SR: Ok. But they are your agent. And your agent has now said my office unlawfully deleted data in the days before the audit, without even so much of "hey stephen, can you help us figure this out?"

KF: I still don't know what tweet you are even talking about. Was this something Ken Bennett tweet [sic] out?

⁵³ Caller from Lake Havasu City, Arizona, number ending in 374.

SR: This tweet:

(I pasted an image of the Tweet again)

KF: Who put this out?

SR: The audit's twitter account...

KF: That's Bennett's. Not mine. I haven't say over his Twitter account

SR: Karen: they are your agent. They are acting under your authority. That would be like if I hired a marketing firm that then said 'Karen fann is a murderer' and disclaiming responsibility.

KF: Sorry you feel that way. I cannot control what Bennett puts on a Twitter account."⁵⁴

Even though I hadn't, at that time, said one negative thing about the Cyber Ninjas, and despite the fact that my Office had produced everything in our statutory control responsive to the subpoena, Senator Fann clearly wasn't interested in defending me against accusations of unlawful conduct made by her own audit.

The Cyber Ninjas later found the files in the materials we sent to them (surprise!).⁵⁵ But only after Trump had sent out an alert that "The entire Database of Maricopa County in Arizona has been DELETED! This is illegal."⁵⁶ Additionally, Senate liaison Ken Bennett has consistently denied that he runs the Twitter account (and I 100% believe him), but he also acknowledged that "The Tweet could have been worded differently."⁵⁷ After the files were "found," multiple political pundits asked, "Did I miss the part where they apologize?"⁵⁸ No, you did not. It never came.

Section 4: I Was Never Anti-Audit

I've never been anti-audit. I understood that—valid or not—lots of Republicans had questions about the 2020 election. I'd spent November and December 2020 listening to my friends in the

⁵⁴ Text message exchange from May 12.

⁵⁵ Jeremy Duda. *AZ Mirror*. May 18, 2021. "[Audit official says he 'recovered' files, undercutting claim county officials deleted them.](#)"

⁵⁶ Twitter. @Garrett_Archer. May 15, 2021. [Link to Tweet.](#)

⁵⁷ Daniel Funke. *USA Today*, May 18, 2021. "[Fact check: False claim from Trump about Maricopa County election database.](#)"

⁵⁸ Laurie Roberts. *AZ Central*. May 19, 2021. "['Deleted' files found? Donald Trump and Karen Fann owe Maricopa County a bigtime apology.](#)"

grassroots Republican Party, talking to state legislators, listening to court cases, and watching YouTube videos to understand these questions. On November 17, 2020, I wrote on Twitter:

“An expanded hand audit has very limited downside and, even if [it] simply affirms existing results (as it presumably should), it has the very real benefit of increasing confidence in the voting process, which is important for keeping citizens engaged.”⁵⁹

Followed by:

“(even if you think it is unreasonable for people to question the results of the election, it is undeniable that there is a not-insignificant percentage of the population that DOES question the results, and if that situation can be improved at a minimal cost...).”

That was my idea at the time from the outside looking in. Perhaps it was an irresponsible suggestion; I later learned that it probably wouldn’t have been legally permissible absent a court order if the ballots had already been sealed.⁶⁰ Additionally, those ballots were subject to ongoing litigation.

Upon taking Office, I continued to push for further review. Based on my conversation with Republican state Senate leadership on January 14, 2021, and based on scores of conversations with Republican activists, I understood those concerned about the election to want a thorough analysis of the tabulation hardware and software. Accordingly, the Elections Department, Board of Supervisors, and I designed a tabulation equipment audit. The Board of Supervisors executed the plan by hiring SLI Compliance and Pro V&V—two certified voting systems laboratories with decades of experience on election equipment.

I’ll admit I started questioning motives when some in the Senate immediately denounced the Board of Supervisors’ audit, despite the obvious qualifications of the two elections technology companies. I know that many senators wanted a more thorough election analysis that did things, e.g., examine the paper of the ballots.⁶¹ But I thought the Board of Supervisors’ tabulation equipment audit was a great starting point to address prevalent concerns like if the tabulation machines had been connected to the internet or had been hacked. I wrote to Supervisor Clint Hickman on January 29, “Even if they don’t love it, it’s presumably still a step in the right direction...”

Within a day of the Board of Supervisors’ announcement, some members of the Senate started saying things that were completely false like “Pro V&V is a bunch of former Dominion employees” (Pro V&V has zero Dominion alumni).⁶² Or else, “they’re just doing another logic and accuracy test” (both companies spent a week analyzing parts of the equipment and

⁵⁹ Twitter. @Stephen_Richer. November 17, 2020. [Link to Tweet](#).

⁶⁰ A court order or, as it turns out, a legislative subpoena.

⁶¹ Maricopa County’s ballots have been printed by Arizona-headquartered Runbeck Elections Services for many years.

⁶² Arizona State Senate. February 8, 2021. [Senate Floor Session](#) (paraphrased).

software).⁶³ Other Senators started making intellectually languid arguments like “SLI Compliance has certified Dominion machines before and therefore isn’t credible” (this would be like saying that an auto mechanic who has previously certified a BMW is no longer able to credibly assess future BMWs—I would say that makes them *more* credible).⁶⁴ I have never understood why Senator Fann did not attend the tabulation equipment audit, while Bowers did.

Even after that audit of the tabulation equipment, I continued to welcome ideas, examinations, and allegations. For example, on March 18, I met in person with Republican activist Liz Harris—whom I knew from the campaign trail as a nice woman running for state House in Chandler. Harris had gained a following because of her efforts to go to houses where large numbers of voters were registered and to attempt to ascertain whether or not those voters truly lived there. She claimed many did not. Harris also claimed that she had found large numbers of voters entered into the voter registration database after the election who had voted in the 2020 election. These issues have very straightforward possible explanations,⁶⁵ but I asked Harris to send me examples such that I could investigate her concerns. She never sent examples.

To date, the only examples of any inaccuracy (not wrongdoing) or credibly alleged fraud (by an individual voter, *not by an elections official*) in Maricopa County that I’m aware of are the following:

a) *Ward v. Jackson et al.*⁶⁶

This post-election action challenged both the signature review process and the duplication process of Maricopa County. The overwhelming majority of ballots in Maricopa County are cast by early vote—by mailing in a ballot, by delivering a ballot to a drop box, or by voting before Election Day. Those ballots are inserted into a green envelope that the voter seals, signs, and dates. That signature is matched against the signatures in the voter registration database to confirm a match. Studies show the signature match process is a more reliable method of confirming identity than is a picture identification card.⁶⁷

Plaintiff alleged that Maricopa County was “not sufficiently skeptical in their comparison of signatures on the mail-in envelopes/affidavits.” To assess this claim, the judge allowed for a review of 100 signatures by both an expert for the plaintiff and an expert the defendant. Neither expert found any “sign of forgery or simulation ... [or] basis for rejecting any of the signatures.” That’s worth emphasizing: of the 100 random

⁶³ Arizona State Senate. February 8, 2021. [Senate Floor Session](#) (paraphrased).

⁶⁴ Arizona State Senate. February 8, 2021. [Senate Floor Session](#) (paraphrased).

⁶⁵ Maricopa County Elections Department. Myth 13. “[Just The Facts—Myth Busters tab, Myth 13.](#)”

⁶⁶ *Ward v. Jackson*, CV 2020-015285 (Dkt. 901). December 4, 2020. [Minute Entry](#).

⁶⁷ Stanford-MIT Health Elections Project. October 28, 2020. “[Behind the Scenes of Mail Voting: The Rules and Procedures for Signature Verification in the 2020 General Election.](#)” See also U.S. Election Assistance Commission. “[Signature Verification and Cure Process.](#)”

signatures reviewed by plaintiff's expert *none* were problematic.

Plaintiff also alleged errors in the ballot duplication process. "Arizona law requires election officials to duplicate a ballot under a number of circumstances. One is where the voter is overseas and submits a ballot under UOCAVA, the Uniformed And Overseas Citizens Absentee Voting Act. Another is where the ballot is damaged or otherwise cannot be machine-tabulated. When a duplicate is necessary, a bipartisan board creates a duplicate ballot based on the original ... In 2020, Maricopa County had 27,869 duplicate ballots out of more than 2 million total ballots. The vast majority of these were either mail-in ballots or UOCAVA ballots. 999 of them came from polling places."

"The Court ordered that counsel could review 100 duplicate ballots. Maricopa County voluntarily made another 1,526 duplicate ballots available for review. Of the 1,626 ballots reviewed, 9 had an error in the duplication of the vote for president." That represented an accuracy rate of 99.45% for duplication. Additionally, the 9 errors did not all favor one candidate—there were mistakes that favored Biden and some that favored Trump. That very minimal amount of error played no role in the outcome of the election and is completely typical for human processes.⁶⁸

- b) *Merissa Hamilton*. Hamilton is a former candidate, Republican activist, and founder of "EZAZ.org—Civic Action Made Easy." She and her team of volunteers reviewed the records of 4,000 registered voters over age 90. They checked both death records and presumably the cast vote record to see if any deceased voters cast a ballot. Any possible wrongdoing they (responsibly) referred to the Attorney General's Election Integrity Unit.⁶⁹ Hamilton's work contributed to the indictment of one Scottsdale woman who allegedly voted for her deceased mother.⁷⁰ The woman's mother died on October 5. Notice of the mother's death, and removal of the mother from the voter rolls did not happen before the County sent out ballots on October 7. The Scottsdale resident allegedly forged her mother's signature and sent back a completed ballot inside the green affidavit. The Attorney General charged the Scottsdale woman with one count of illegal voting and one count of perjury. The Scottsdale resident is a registered Republican who has donated to Republicans, but there is no information to suggest the alleged unlawful act was part of a broader partisan effort. At the time of the indictment—July 12, 2021—the Attorney General's Office had 5 active election-related criminal cases.⁷¹

⁶⁸ Though there was only a very minimal amount of human error, this illustrates why I'm in favor of *more* machine involvement, not less. Anyone who absurdly says that we should get rid of machines in elections is inviting more errors and delays. Machines are less error prone when it comes to repetitive tasks. Ashley Smith. *DataRobot*. November 25, 2019. "[AI Simplified: What Computers Are Good At.](#)"

⁶⁹ [Election Integrity Unit](#), Arizona Attorney General Mark Brnovich.

⁷⁰ Arizona Attorney General Mark Brnovich. July 12, 2021. "[Scottsdale Woman Accused of Voting in Name of Deceased Person Indicted.](#)"

⁷¹ Arizona Attorney General Mark Brnovich. July 12, 2021. "[Scottsdale Woman Accused of Voting in Name of Deceased Person Indicted.](#)"

Again, this was done by an individual voter, not by an election official, worker, or vendor. There have been no allegations, indictments, or charges against anyone actually working the election.

I'm willing to keep looking at whatever anyone wants.⁷² Heck, I'd happily partner with Senator Fann if she said to me, "Stephen, let's you, and the Board,⁷³ and I work together on one final review to end this nightmare. We'll ditch the Ninjas. Let's get a professional elections company like Clear Ballot, and let's do this thing professionally, responsibly, and quickly. And we want the County to pick up half the cost."⁷⁴

What I'm not willing to do is further indulge the biased, inexperienced, incompetent, conspiracy-theory-driven, unscrupulous, partisan Cyber Ninjas.

Section 5: If There's Nothing To Hide, Why Do You Care About The Ninjas?

I firmly believe that the average person who worked or volunteered at the audit is a good person who sincerely wants to help our state and country. Many of these people are my friends from the Republican grassroots world. I feel the same of Senate liaison Ken Bennett.

But, oh, those Cyber Ninjas.

It's tempting to say, "if there's nothing to hide, then why do you care if the Ninjas take a look?" This argument is even stronger in my case because presumably any wrongdoing wouldn't have been my fault, as I didn't take office until two months after the election in question.

If only it were that easy. My public efforts were precipitated by the false accusations of unlawfulness made by the audit's Twitter account on May 12—one of many harmful acts from an allegedly harmless endeavor. Philip Bump wrote an amazing piece for *The Washington Post* illustrating the harm that comes from witch hunts, even if you're not a witch.⁷⁵

Furthermore—as I have analogized for the *National Review*—even if you did your taxes properly, you might object to an IRS audit if outsourced to someone who had no applicable credentials, had never conducted a tax audit, said that Hugo Chavez controlled your tax-auditing software, and had already told the public you'd committed tax fraud.⁷⁶ That is what we have here with the Cyber Ninjas.

⁷² But don't send me a Mike Lindell video. I've watched them all; they're errant nonsense and Lindell's own experts have said the bag is empty. Joseph Clark. *The Washington Times*. August 11, 2021. "[Exclusive: Cyber expert says his team can't prove Mike Lindell's claims that China hacked election.](#)"

⁷³ I can't speak for the Board; they, unlike me, have been subject to a contempt vote by the Senate.

⁷⁴ This is a serious offer.

⁷⁵ Philip Bump. *The Washington Post*. June 21, 2021. "[Why the Arizona election review is not simply an exercise in 'transparency.'](#)"

⁷⁶ Stephen Richer, *National Review*, May 27, 2021. "[The Madness of the Maricopa County Election Audit.](#)"

Section 5A: Experience

First, the Cyber Ninjas had *zero* experience doing election audits.⁷⁷ Zero. The importance of this cannot be overstated. If I incorporated an Arizona LLC tomorrow, that entity would have the same election audit experience as the Cyber Ninjas had upon arriving in Arizona (that new LLC would seemingly also have the same head count (1) and headquarters (a P.O. box) as the Cyber Ninjas).⁷⁸ The Senate handed over the most important post-election audit in the country since 2000 to a group with *zero* election audit experience.

Some argue that Cyber Ninjas' inexperience doesn't matter because this is a completely new type of audit. I won't dispute the novelty of this audit. It is the first audit to look for secret watermarks and bamboo fibers in ballots. But using this as an excuse would be like handing over a novel heart surgery to an auto mechanic instead of to a heart surgeon who has successfully performed other types of heart surgeries.

Others say this complete absence of experience didn't matter because Cyber Ninjas subcontracted Wake TSI. Wake TSI had previously done exactly one small election audit.⁷⁹ Maricopa County had just shy of 2.1 million cast ballots and is the second largest voting jurisdiction in the United States. Additionally, Wake TSI left in the early stages of the hand count, choosing to discontinue its association.⁸⁰

Such an important audit calls for a blue-chip company. Think Kirkland & Ellis if you're in the legal world. Or Deloitte in accounting.

One such company—Clear Ballot—applied to do the Senate's audit, but according to several people I've spoken with, Senator Fann balked at the \$450,000 proposed by Clear Ballot, opting for instead the \$150,000 price tag of the Cyber Ninjas.⁸¹ Penny wise, pound foolish. The Cyber Ninjas have embroiled the Senate in loads of legal challenges that have required Senator Fann to continue to enlist the (admittedly excellent) legal services of Kory Langhofer and Tom Basile at Statecraft Law.⁸² Additionally, had Senator Fann given the audit to a certified elections company, Secretary of State Katie Hobbs wouldn't have decertified the tabulation equipment from future use—an action that will cost Arizona taxpayers millions of dollars (whether borne

⁷⁷ Nicholas Riccardi. *AP*. May 23, 2021. "[Experts or 'grifters'? Little-known firm runs Arizona audit.](#)"

⁷⁸ Twitter. @KyungLahCNN. June 17, 2021. [Link to Tweet.](#)

⁷⁹ Jeremy Duda. *AZ Mirror*. May 21, 2021. "[Wake Technology Services audited a Pennsylvania election as part of the #StopTheSteal movement.](#)" See also Ralph Neas et al. *Report Democracy*. July 1, 2021. "[How the Arizona Senate Audit in Maricopa County Is an Assault on Voting Rights.](#)"

⁸⁰ Jeremy Duda. *AZ Mirror*. May 25, 2021. "[Wake TSI, the company leading the hand-recount, left the Arizona audit team.](#)"

⁸¹ Nicholas Riccardi. *Los Angeles Times*. May 23, 2021. "[Little-known firm runs Arizona audit of presidential election results.](#)"

⁸² Through May, the Senate had paid \$172,107 to Statecraft law in connection with the audit. *Yellow Sheet Report*. August 13, 2021. "[Living The Dream.](#)"

by the County or state).⁸³ And these are just the tip of the iceberg in terms of costs that will ultimately be passed onto the taxpayer.

As for private costs—the Cyber Ninjas have so far raised \$5.6 million for the audit (97.4% of the Ninjas’ payment so far).⁸⁴ All of it comes from Stop the Steal activists who have said the election was stolen.⁸⁵ This funding ironically comes on the heels of the state legislature’s successful passage of a bill banning private grant funding of elections because they believed that Mark Zuckerberg could influence election administration through his private foundation.⁸⁶ For perspective, the Center for Tech and Civic Life,⁸⁷ a large nonprofit, provided \$2,995,922 to Maricopa County with no political stipulations or strings attached. That money was publicly announced well before the 2020 election and voted on by the Board of Supervisors. The total sum constituted approximately 7% of the fiscal year budget of the Recorder’s Office and Elections Department. Furthermore, I’ve since returned \$1,155,576.51 of the grant as no longer applicable.⁸⁸ Of the approximately \$2 million spent, the majority was spent on temporary staffing at polling locations, online training technologies, ink and toner for ballot printers, and renting larger polling locations to allow for physical distancing.

Section 5B: Impartial and Unbiased?

Another hallmark of a professional audit is the objective, impartial, and unbiased nature of the auditors. For example, Ernst & Young would *never* formulate or publicly announce their conclusions *before* beginning an audit.

But that’s what the Cyber Ninjas did.

Prior to starting the audit, Cyber Ninjas CEO (and only employee?) Doug Logan tweeted, “I’m tired of hearing people say there was no fraud. It happened, it’s real, and people better get wise fast.”⁸⁹ He frequently used the “#stopthesteal” hashtag, and he even went so far as to allege a connection to election fraud efforts in Venezuela (“The parallels between the statistical analysis of Venezuela and this year’s elections are astonishing.”)⁹⁰ He also anonymously

⁸³ Secretary Katie Hobbs letter. May 20, 2021. [“Re: Subpoenaed Election Equipment.”](#)

⁸⁴ Jen Fifiield. *AZ Central*. July 27, 2021. [“Here’s the list of the ‘Stop the Steal’ nonprofits paying Cyber Ninjas millions for the Arizona election audit.”](#)

⁸⁵ Jen Fifiield. *AZ Central*. July 27, 2021. [“Here’s the list of the ‘Stop the Steal’ nonprofits paying Cyber Ninjas millions for the Arizona election audit.”](#)

⁸⁶ I supported the legislature’s decision to ban private funding. Public elections should be adequately funded by public dollars.

⁸⁷ The Zuckerbergs are large supporters, but the Foundation has many other supporters.

⁸⁸ Twitter. @RecordersOffice. August 11, 2021. [Link to Tweet.](#)

⁸⁹ Jeremy Duda and Jim Small. *AZ Mirror*. March 31, 2021. [“Arizona Senate hires a ‘Stop the Steal’ advocate to lead 2020 election audit.”](#)

⁹⁰ Jeremy Duda and Jim Small. *AZ Mirror*. March 31, 2021. [“Arizona Senate hires a ‘Stop the Steal’ advocate to lead 2020 election audit.”](#)

authored a report called “Election Fraud Facts & Details”⁹¹ to be used by U.S. Senators who wanted to object to the certification of the Electoral College. That document attempts to tie Dominion to both China and to deceased Venezuelan dictator Hugo Chavez.⁹² Both claims are false, have been debunked repeatedly, and are now part of defamation actions against Powell, Rudy Giuliani, Mike Lindell, and other Stop the Steal activists (the actions have already survived a motion to dismiss). Logan’s report also featured in failed court cases.

When the Ninjas set to work, it was with a team that could hardly be called impartial and unbiased. Unlike the County’s hand count audit, the Ninjas formed their team almost entirely from Republicans, largely recruiting from the grassroots Republican world and from a former Republican voter registration operation called AZ51 Voter Project.⁹³ And the team included a Republican candidate actually on the November 2020 ballot.⁹⁴ And it included attendees of the January 6 riot.⁹⁵ And it gave leadership positions to former Trump campaign staffers. And, as mentioned previously, it was funded almost entirely by Stop the Steal activists who have long stated that the election was stolen.

Many of these people are my friends, and I’m sure most of them made admirable and honest efforts. But this operation didn’t even have a veneer of impartiality and was led by an individual who had already expressly stated his belief that the 2020 election was stolen from former President Trump.

The target county and audited races also belie the impartial and unbiased premise of the audit. Of Arizona’s 15 counties, the Ninjas are *only* auditing Maricopa County. Maricopa County has a strong statewide reputation, technology and cybersecurity resources that other counties can’t afford, and had no serious mishaps or anomalies that could justify its sole selection.

Then there’s the races chosen: Presidential and U.S. Senate. Both are races in which the incumbent Republican lost to the Democrat. The Ninjas have given no explanation for the selection of these two races. If they were looking for the race on every County ballot that had the narrowest margin of victory, they would have chosen mine—a race in which the incumbent Democrat lost to the Republican challenger.

When thief Willie Sutton was asked why he robbed the bank, he responded simply: “Because that’s where the money is.” When offered no legitimate explanation for selecting the top two

⁹¹ The report has been deleted, but not before many journalists obtained a copy. Jeremy Duda. *AZ Mirror*. April 9, 2021. [“Election auditor wrote ‘election fraud facts’ report for GOP senators who tried to overturn the 2020 election.”](#)

⁹² Jeremy Duda. *AZ Mirror*. April 9, 2021. [“Election auditor wrote ‘election fraud facts’ report for GOP senators who tried to overturn the 2020 election.”](#)

⁹³ An effort that I admired and applauded.

⁹⁴ Kyra Haas. *Arizona Capitol Times*. April 30, 2021. [“Reporter forced from Senate audit for photographing ex-lawmaker, indiscernible ballot.”](#)

⁹⁵ Jerod MacDonald-Evoy. *AZ Mirror*. June 17, 2021. [“Auditors promised to screen workers, but QAnon promoters and Capitol rioters were hired.”](#)

racism in Maricopa County, it gives the appearance that Maricopa County was simply chosen because it accounts for 62% of Arizona's vote and because former President Trump lost Maricopa County.

Finally—and the absurdity of this is mind boggling—the Ninjas appeared in a conspiracy-theory film about the election, *and* allowed the film to be shot *at the audit, while performing the audit*.⁹⁶ The film, called “The Deep Rig,” alleges that the entire 2020 election was stolen, including Arizona.⁹⁷ It is directed by Roger Richards, whose limited previous filmography includes a movie allegedly exposing the workings of “the deep state,”⁹⁸ as well as movie alleging extraterrestrial involvement in the September 11 terrorist attacks and that the Nazis had a settlement on the moon and Mars.⁹⁹ The Deep Rig features Senate audit liaison Ken Bennett and, in a starring role, Cyber Ninjas CEO Doug Logan.¹⁰⁰ Parts of the movie show the inside of the Coliseum during the audit. I don't see how anyone even somewhat serious about an objective audit could possibly countenance the production of this film with auditors at the audit. This is the opposite of impartial and unbiased. This will not be trusted by most Arizonans.

Section 5C: Scientific Methodology Vs. Conspiracy Theorists.

The Federal Rules of Evidence offer a useful proxy for the presumed qualifications of expert witnesses:

“(a) the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
(b) the testimony is based on sufficient facts or data;
(c) the testimony is the product of reliable principles and methods; and
(d) the expert has reliably applied the principles and methods to the facts of the case.”¹⁰¹

The Ninjas’ complete lack of election audit experience disqualifies them under part (a). The Ninjas are also disqualified under parts (c) and (d).

Every professional election observer who has witnessed the process has commented on the make-it-up-as-you-go rules of the audit and the slipshod practices. Celebrated Republican election law attorney Ben Ginsberg¹⁰² wrote in *The Arizona Republic* that:

⁹⁶ Jerod MacDonald-Evoy. *AZ Mirror*. June 2, 2021. [“The conspiracy theory film made at the Arizona audit.”](#)

⁹⁷ The Deep Rig. 2021. [IMDb](#).

⁹⁸ A Thousand Pieces. 2020. [IMDb](#).

⁹⁹ Above Majestic. 2018. [IMDb](#). Watch the trailer. It's wild.

¹⁰⁰ Jerod MacDonald-Evoy. *AZ Mirror*. June 26, 2021. [“Audit leader Doug Logan appears in conspiracy theorist election film.”](#)

¹⁰¹ Federal Rules of Evidence, Rule 702.

¹⁰² Ginsberg was *the* Republican election law attorney for many years. He served as a national counsel for the Bush-Cheney presidential campaign and played an instrumental role in the Florida recount.

“Fann and Arizona Republicans had reason to call for an audit of the 2020 election ... But by overstating its capabilities, the vendor Cyber Ninjas has let down Arizona Senate Republicans. Their haphazard procedures have turned the Audit into the “audit” and their findings won’t be credible, whether they deem the election flawed or not. Senator Fann and her Republican colleagues need to confront the situation as it is instead of how they wish it could be. The truth is that they are at the helm of a fatally tainted audit.”¹⁰³

Similarly, former Kentucky Secretary of State Trey Grayson, a Republican, and elections expert Dr. Barry C. Burden published a 24-page report on why the Ninjas’ methodology cannot possibly produce accurate results. They wrote:

“In contrast to official procedures in Arizona and best practices around the country, the Cyber Ninjas review suffers from a variety of maladies: uncompetitive contracting, a lack of impartiality and partisan balance, a faulty ballot review process, inconsistency in procedures, an unacceptably high level of error built into the process, and insufficient security. A general lack of transparency and communication also makes it difficult to evaluate the review fully as one would an official recount or audit, and it undermines rather than establishes confidence in the election system and the review itself. Because it lacks the essential elements of a bona fide post-election analysis, the review currently underway in Maricopa County will not produce findings that should be trusted.”¹⁰⁴

Arizona’s Secretary of State, Katie Hobbs, has also detailed the irregular, unreliable practices of the Ninjas.¹⁰⁵

Instead of using recognizable expert-developed methodology, the Ninjas are relying on the eccentric treasure hunter Jovan Pulitzer as their North Star. Pulitzer hadn’t worked in elections prior to 2020. He is a failed inventor who has changed his legal name multiple times and has spent years of his life searching for the Ark of the Covenant.¹⁰⁶ Seriously. His marquee invention—the CueCat—was deemed by Time Magazine as one of “The 50 Worst Inventions” in the world.¹⁰⁷ Nonetheless, because of Pulitzer’s theories, the Ninjas are looking for “kinematic artifacts”—an unsupported pseudoscience that has zero bearing on the validity of ballots.¹⁰⁸

¹⁰³ Benjamin Ginsberg. *AZ Central*. June 5, 2021. [“We needed an Arizona election audit, but now it’s a farce. Here’s how to end it responsibly.”](#)

¹⁰⁴ Barry C. Burden and Trey Grayson. *States United Democracy Center*. June 22, 2021. [“Report on the Cyber Ninjas Review of the 2020 Presidential and U.S. Senatorial Elections in Maricopa County, Arizona.”](#)

¹⁰⁵ Katie Hobbs. Secretary of State’s Office. [“2021 Senate ‘Audit’ Letters”](#) and [“Coliseum Observer Notes 2021.”](#)

¹⁰⁶ The History Channel. *YouTube*. November 19, 2014. [“The Curse of Oak Island: Pulitzer Reveals Theory.”](#)

¹⁰⁷ Dan Fletcher. *Time*. May 27, 2010. [“The 50 Worst Inventions – CueCat”](#)

¹⁰⁸ Jerod MacDonald-Evoy. *AZ Mirror*. April 30, 2021. [“Audit using unproven technology developed by ‘failed inventor’ Jovan Pulitzer.”](#)

In addition to Pulitzer, the Ninjas put stock in various QAnon theories, including one that alleged that former President Trump himself secretly watermarked mail-in ballots to prove fraud.¹⁰⁹ This led to the Ninjas examining ballots using UV-lights to look for watermarks.¹¹⁰ Maricopa County's ballots are securely printed by an Arizona-based company and go straight to the Post Office before going to voters.

And, of course, the Ninjas based their work on the musings of CEO Doug Logan. Logan, as mentioned previously, is a conspiracy theory enthusiast who even went so far as to suggest that dead Venezuelan dictator Hugo Chavez somehow had a hand in the theft of the 2020 election.¹¹¹

Remarkably, it would probably have been better to select an average person on the street to conduct the audit. Sure, that person would have to figure things out. But at least that person wouldn't chase crazy conspiracy theories.

Section 5E. Input Bad, Output Bad

The resulting audit has been about what you might expect. The ongoing foibles of the Ninjas' audit have been incredibly well-documented by both local and national reporters, so they need only limited attention here. All of the following journalists have written at least three articles detailing mistakes made by the Cyber Ninjas that evince a lack of professionalism: Jen Fifield (*AZ Central / The Arizona Republic*),¹¹² Jeremy Duda (*AZ Mirror*),¹¹³ Jerod MacDonald-Evoy (*AZ Mirror*),¹¹⁴ Garrett Archer (*ABC 15*),¹¹⁵ Zach Montellaro (*Politico*),¹¹⁶ Ros Helderman (*The Washington Post*),¹¹⁷ Kyung Lah (*CNN*),¹¹⁸ *The Arizona Capitol Times*, American Oversight,¹¹⁹ and others. They point to the following:

- *Blue pens.* Blue and black pens can be used to mark ballots. For this reason, Maricopa County only allows red ink, which cannot be read by the tabulation machines, in any room with ballots. Unfortunately, the Ninjas' volunteers had blue pens—something that didn't initially strike Cyber Ninjas' CEO Doug Logan as problematic—until reporter

¹⁰⁹ Jen Fifield. *AZ Central*. April 28, 2021. "[Arizona election auditors are running ballots under UV light. What could they be looking for?](#)"

¹¹⁰ Jen Fifield. *AZ Central*. April 28, 2021. "[Arizona election auditors are running ballots under UV light. What could they be looking for?](#)"

¹¹¹ Jeremy Duda and Jim Small. *AZ Mirror*. March 31, 2021. "[Arizona Senate hires a 'Stop the Steal' advocate to lead 2020 election audit.](#)"

¹¹² [Jen Fifield at AZ Central](#).

¹¹³ [Jeremy Duda at AZ Mirror](#).

¹¹⁴ [Jerod MacDonald-Evoy at AZ Mirror](#).

¹¹⁵ [Garrett Archer at ABC 15](#).

¹¹⁶ [Zach Montellaro at Politico](#).

¹¹⁷ [Rosalind S. Helderman at The Washington Post](#).

¹¹⁸ [Kyung Lah at CNN](#).

¹¹⁹ American Oversight. "[How the Arizona Election 'Audit' Has Already Been Compromised.](#)"

Jen Fifield noted alerted him to the problem.¹²⁰ Instead of showing gratitude toward Fifield, the audit's now-banned anonymous Twitter account took to criticizing Fifield for things wholly unrelated to journalism and disparagingly called "Blue Pen Jen."

- *"Lazy Susans."* To expedite the counting process, the Ninjas put ballots on "Lazy Susans" that allowed for ballots to be spun from one counter to another. Observers noted that the workers were expected to read the results of the two races while the table spun.¹²¹ In some videoed instances, this led to ballots flying off the table during counting. As a perhaps natural result, vote counters sometimes compared the number of ballots that they had counted¹²²—directly in conflict with Arizona election law which states that tallies should be documented independently and not compared until the end of each batch.

Multiple election experts have noted the problematic nature of this counting methodology when extrapolated over 2.1 million ballots. Trey Grayson—former Republican Secretary of State of Kentucky—wrote:

"Although this process seems efficient and potentially standardized, it has fatal flaws. The most serious concern is that counters are asked to inspect ballots that are in motion, often moving at high rates of speed. In standard recounts, the ballot remains still, and counters handle each ballot and take the time needed to observe and discern voter intent in a single contest. As noted above, Arizona's "stacking method" used in its hand recounts follows this best practice, allowing counters to take the time needed to view ballots clearly and reach consensus about each voter's intent.

In contrast, in the Cyber Ninjas review, the ballot is moving sideways on a spinning device. The device is operated by a worker who places the ballots on the stand rather than the counters who are actually discerning votes. In the counting operations we observed, it usually took between two and six seconds for the ballot to move from appearing in front of the first counter for viewing to appearing in front of the third counter for viewing. This means that each of the three counters had between a fraction of a second and two seconds to observe and discern voter marks in both the presidential and senatorial contests. This is an unrealistic speed for accurate review of ballots. Indeed, on multiple occasions we witnessed counters who apparently could not keep up with the process reach out and stop or reverse the spinning carousel to have a better view of the ballot that had just passed by.

¹²⁰ Ted Simons. *Arizona PBS*. April 26, 2021. "[Arizona Republic reporter catches mistake in ballot audit.](#)"

¹²¹ Lauren Gilger. *KJZZ*. May 24, 2021. "['Cheetos Fingers': What One Elections Expert Saw At The Arizona Senate's Audit.](#)"

¹²² Jen Fifield. *AZ Central*. April 23, 2021. "[Arizona Senate audit gets off to shaky start, with rules finalized on the fly.](#)"

Observers who have watched the process at length report that this review of spinning ballots was done continuously for 50 or 100 ballots. This large number in each batch facilitates error because of the fatigue and monotony of the process. Standard recounts typically process ballots in batches of 10 to 25 to reduce errors. For example, Maricopa County's post-election hand recount used batches of 10 while the EAC recommends batches of 20.

In addition to the fact that ballots are in motion and that counters have insufficient time to review the ballots carefully, the approach violates the principle that counters should observe ballots simultaneously. As explained above, the best practices used nationwide and in official Arizona hand counts require that each ballot is viewed simultaneously by counters who either agree or disagree on how it should be counted before advancing to the next ballot. In contrast, all the Cyber Ninjas procedure will be able to determine is whether the totals for the counters agree for a particular batch. Even when the totals match, counters might in fact disagree on individual ballots within a batch. And any disagreement is not easy to resolve because the counters' assessments are aggregated by batch. Because counters are not coming to agreement on ballots simultaneously, this system perpetuates rather than alleviates any inconsistencies in the standards used by the counters."¹²³

- *Plagiarized(?) and ever-changing procedures.* In April, a judge ordered that the Cyber Ninjas must publish their audit policies and procedures—something the Ninjas had resisted.¹²⁴ Of the three documents posted by the Ninjas, one appeared to be copied almost wholesale from the National Institute of Justice.¹²⁵ The metadata on the seemingly-copied document shows it was created on April 24, after the audit began and only *after* the judge demanded production.¹²⁶ It does not inspire confidence that the Ninjas' procedures were seemingly cobbled together last-second, and only when ordered by court. These last-minute procedures also apparently changed repeatedly throughout the process—something likely to cause error in whatever count the Ninjas produce.¹²⁷

¹²³ Barry C. Burden and Trey Grayson. *States United Democracy Center*. June 22, 2021. "[Report on the Cyber Ninjas Review of the 2020 Presidential and U.S. Senatorial Elections in Maricopa County, Arizona.](#)"

¹²⁴ Staff. *ABC 15*. April 29, 2021. "[Cyber Ninjas releases documents describing Maricopa County audit procedures after court ruling.](#)"

¹²⁵ Twitter. @JeremyDuda. April 30, 2021. "[Good catch by @TheYellowSheet yesterday. The digital evidence policies manual from subcontractor CyFIR that Cyber Ninjas released is nearly identical to something DOJ published a year ago.](#)"

¹²⁶ Twitter. @JeremyDuda. April 30, 2021. "[Good catch by @TheYellowSheet yesterday. The digital evidence policies manual from subcontractor CyFIR that Cyber Ninjas released is nearly identical to something DOJ published a year ago.](#)"

¹²⁷ Katie Hobbs. Arizona Secretary of State. [Coliseum Observer Notes 2021](#).

- *Delays.* Nine months after the 2020 General Election, and months behind the timetable originally set by the Ninjas, we are still waiting on a Ninja report. Maricopa County produced the vast majority of subpoenaed documents by the middle of January 2021. At the end of February 2021, a court ruled in favor of the validity of the Senate's subpoena. Within just a few days, Maricopa County had all 2.1 million ballots on trucks, ready for delivery to the Senate. Not until April 16, 2021 did the Senate announce it was ready to take delivery of the ballots and tabulation equipment. The Ninjas originally promised they would complete the hand count by mid-May.¹²⁸ That deadline got pushed to the end of May, which then got pushed to June, which then got pushed to the end of July.¹²⁹ The Ninjas and the Senate have laughably tried to blame the County Board of Supervisors and others for their delay, but the reality is that the Ninjas had the ballots for *months* longer than they promised. Just this week we witnessed another pushed deadline when the Ninjas said they would deliver a draft report on August 20. A day later, the Ninjas moved that deadline back to August 23. This might seem unimportant, but it embodies the lack of professionalism in all aspects of Ninjas' work, and it continues to distract from, and disrupt, the operations of the County Elections Department.
- *Lost in the woods.*¹³⁰ At the beginning of June, a Cyber Ninjas subcontractor drove undisclosed data and other elections materials out of Arizona to a location in Montana that the Ninjas called a "secure lab."¹³¹ It was later revealed that the "secure lab" is just a home owned by a Ninjas subcontractor in the northern Montana wilderness. There, the subcontractor performed unknown tests to unknown data without any disclosed processes or oversight.¹³²

This list could go on for pages to include things like security,¹³³ non-disclosure agreements for ballot counters (the County definitely doesn't do this!),¹³⁴ resistance to media and observer

¹²⁸ Aaron Mak. *Slate*. May 3, 2021. ["Arizona Is Holding Yet Another 2020 Recount. The Company Running It Makes It Even Worse."](#)

¹²⁹ Jane C. Timm. *NBC News*. July 1, 2021. ["Months behind schedule, Arizona election auditors extend lease again."](#)

¹³⁰ "Off on a (very) different path from mine."

¹³¹ Jen Fifield. *AZ Central*. June 3, 2021. ["Maricopa County election data is in a 'secure lab' in Montana, or maybe a log cabin in the woods?"](#)

¹³² Zachary Petrizzo. *Salon*. June 18, 2021. ["Arizona election audit takes wild turn: Voter data is transported to a 'secret' lab in another state."](#)

¹³³ Morgan Loew. *AZFamily.com*. April 22, 2021. ["Security lapses plague Arizona Senate's election audit at State Fairgrounds."](#)

¹³⁴ Nicole Valdes. *ABC15*. May 4, 2021. ["Maricopa County Senate audit observers forced to sign non-disclosure agreements."](#)

access,¹³⁵ and sexual harassment allegations,¹³⁶ but the writers cited above have thoroughly canvassed these topics, and I refer you to them.

Section 6: Is this still really about building confidence?

Senator Fann has repeatedly said that this audit is about building confidence. She insists that she has never claimed that the election was stolen.¹³⁷ She insists that this audit isn't about reinstating Trump.¹³⁸ She simply wants to improve confidence with the electorate.¹³⁹

This is decidedly *not* the objective of many of the audit donors, workers, and promoters who have explicitly said the audit is about showing Trump won or even reinstating Trump as president. But I have no reason to doubt Senator Fann's intentions.

I do not, however, think the Ninjas have the same objective.

Consider their recent public unveiling of the allegation that 74,000 fraudulent mail-in ballots were injected into the election. Airing this without foundation, and without research, is alarmingly unprofessional and irresponsible. It's laughable to think a professional audit company would air a half-baked theory. Furthermore, the inaccurate allegation showed that the auditors lacked even a rudimentary understanding of Maricopa County elections. Garrett Archer and Jeremy Duda masterfully proved the allegation to be baseless and the auditors to be either woefully inept or deceitful.¹⁴⁰

Eventually the Ninjas themselves agreed that they were wrong about the 74,000 fraudulent ballots claim.¹⁴¹ However, apparently neither they nor any of the Senators bothered to inform Trump that they'd erred. As such, in his recent July 24 speech in Phoenix, the former President made the 74,000 number a focal point in his speech alleging election fraud.¹⁴² In what was maybe the most dystopian moment of my life, I watched as the former President of the United States told a falsehood to a crowd of 5,000 fans, many of whom knew the 74,000 number to be

¹³⁵ Mark Phillips. *ABC15*. April 29, 2021. "[Secretary of State gets observers inside Maricopa County Election Audit, Cyber Ninjas has to reveal methods.](#)"

¹³⁶ Christopher Eberhart. *DailyMail*. July 5, 2021. "[Arizona Election Audit demanded by Donald Trump is hit by sex pest scandal: Multiple women claim male worker made unwanted sexual advances and raged angrily at women who had authority over him.](#)"

¹³⁷ Danny Shapiro. *KTAR*. May 18, 2021. "[Arizona Senate says audit will resume as planned on Monday.](#)"

¹³⁸ Kevin Stone. *KTAR*. July 15, 2021. "[Arizona Sen. Karen Fann at audit hearing: 'This is not about Trump.'](#)"

¹³⁹ Jim Small. *AZ Mirror*. August 4, 2021. "[Karen Fann might be the only one who doesn't realize the 'audit' is all about Donald Trump.](#)"

¹⁴⁰ Garrett Archer and Jeremy Duda. *ABC 15*. August 3, 2021. "[Cyber Ninjas leader ignored records contradicting his false claim.](#)"

¹⁴¹ The Ninjas blame the error on Maricopa County's unwillingness to teach them the fundamentals of elections. But any half-way elections data analyst could have helped them. Unfortunately, the Ninjas have no such person. Twitter. @WendyRogersAZ, July 23, 2021. [Link to Tweet.](#)

¹⁴² Christina Zhao. *Newsweek*. July 24, 2021. "[Trump Escalates Voter Fraud Claims After Arizona SOS Urges Him to 'Accept' Loss.](#)"

wholly inaccurate, and the crowd cheered in agreement and delight. Senate audit liaison Ken Bennett later said it was “frustrating” that Trump repeated the inaccurate allegation.¹⁴³ Nobody else from the audit—not newly minted spokesperson Randy Pullen, nor the Cyber Ninjas, nor Senator Fann—made any effort to correct the new falsehood that Trump had broadcast as a result of the Ninjas’ sloppy or purposefully deceitful work.

Airing a new, inaccurate, claim of fraud is not building confidence. That’s doing the opposite.

The same could be said about the Ninjas’ recent resurrection of Sharpiegate—an issue that has been litigated¹⁴⁴ and debunked as a non-issue, and, we thought, finally put to rest.¹⁴⁵ Let’s go over it one more time. Yes, the Sharpies used on Election Day bled through the ballots. Because of the global paper shortage, the County used thinner paper than it would have otherwise. Yes, the County asked voters on Election Day to use Sharpies because Sharpie ink dries the fastest. Unlike ballots voted any prior day, ballots voted on Election Day are fed immediately into the tabulation machine. If the ballot ink does not dry quickly, it can leave a residue on the tabulator that can eventually cause the tabulator to shut down.

But no, the Sharpies did not cause any problem. The ovals on the front and back of the ballot are off-set such that no bleed through caused an erroneous vote. The County knows exactly how many overvotes occurred on Election Day (233 out of 167,878 ballots). Additionally, on Election Day, if the voter overvotes on one contest, the tabulator can inform the voter and allow for correction of the overvote.

Nonetheless, the Ninjas decided to reopen the Sharpie issue at a recent presentation.¹⁴⁶ They showed that bleed through did indeed occur. However, they had yet to draw a conclusion as to whether or not it caused any overvotes. Nor did they make mention of the fact that the issue of Sharpies had been examined by Judge Mahoney in *Aguilera v. Fontes II* in which all six of plaintiffs’ causes of action were dismissed with prejudice.¹⁴⁷

This is again evidence that the Ninjas are wildly incompetent or intentionally damaging voter confidence. The Ninjas had the ballots for *three months*, if they weren’t doing things like checking the veracity of their allegations, then what were they doing? It is irresponsible and reckless to make a serious accusation without having fully researched the claim.

Incompetent or intentionally false describes *so many* of the Ninjas’ recent allegations that I directed the Recorder’s Office and Elections Department to build an entire webpage dedicated

¹⁴³ Kevin Stone. *KTAR News*. July 26, 2021. [“Shut out of Arizona audit, Ken Bennett raises concerns about transparency.”](#)

¹⁴⁴ *Aguilera v. Fontes II*, CV 2020-014562 (dkt. 042). November 29, 2020. [Order of dismissal](#).

¹⁴⁵ Jerod MacDonald-Evoy. *AZ Mirror*. July 20, 2021. [“Fact vs. fiction: Getting to the bottom of what ‘audit’ leaders claimed.”](#)

¹⁴⁶ Jerod MacDonald-Evoy. *AZ Mirror*. July 20, 2021. [“Fact vs. fiction: Getting to the bottom of what ‘audit’ leaders claimed.”](#)

¹⁴⁷ *Aguilera v. Fontes II*, CV 2020-014562 (dkt. 042). November 29, 2020. [Order of dismissal](#).

to correcting the Ninjas' mistakes—mistakes that no competent election auditor would make: [JustTheFacts.Vote](#).

Additionally, the Ninjas have shown an odd reluctance to have their audit work assessed and verified by any person not in the inner-Ninja circle. Senate liaison Ken Bennett—the only one in the operation with any previous professional Arizona election experience—has been closed out of various processes.¹⁴⁸ One such process was the additional paper count ordered by the Senate. Because the Ninjas had counted a total number of ballots different than Maricopa County, the Senate obtained paper counting machines that could be operated by a third party to confirm the County's count, or the Ninjas' count, or produce a third count. Bennett got shut out of this process. This count was supposed to be done by a third party, but it instead was done by the attorney representing the Cyber Ninjas and by volunteers who worked on the Ninjas' hand count.¹⁴⁹ On a local radio program, Bennett worried that the Ninjas might "force balance" the paper counting to make sure machine count matched the Ninjas' count.¹⁵⁰ That doesn't inspire confidence, and it doesn't suggest this audit is really about building confidence.

The Ninjas have also resisted the independent assessment of Benny White, a Tucson-based Republican elections expert, Republican activist, and former Republican candidate. White partnered with former elections technology executives Larry Moore and Tim Halvorsen, and together they used public records to put together information that allows for a 8,170-vote comparison between the County's results and the Ninjas' count.¹⁵¹ Such a point-to-point analysis is how a real election audit is done. As noted by the White trio, "It would be intentional disinformation if the Senate published a report that showed five numbers—the grand totals for the three candidates in the Presidential contest and two for the candidates in the U.S. Senate contest" rather than doing a point-to-point comparison.¹⁵²

Unfortunately, the Ninjas rejected White's offer and have so far rejected any type of third-party validation or thorough professional examination of all parts of the audit (including the cabin in Montana).¹⁵³

Is this really still about building confidence?

¹⁴⁸ Howard Fischer. *Daily Independent*. July 27, 2021. "[Bennett locked out as Maricopa County audit liaison](#)."

¹⁴⁹ Mary Jo Pitzl. *AZ Central*. August 15, 2021. "[Arizona Senate used Cyber Ninjas' attorney to conduct 'independent' recount](#)."

¹⁵⁰ Kevin Stone. *KTAR News*. July 26, 2021. "[Shut out of Arizona audit, Ken Bennett raises concerns about transparency](#)."

¹⁵¹ Benny White, Larry Moore, Tim Halvorsen. August 3, 2021. "[Lessons from Maricopa County: Slow Facts versus Fast Lies in the Battle Against Disinformation](#)."

¹⁵² Benny White, Larry Moore, Tim Halvorsen. August 3, 2021. "[Lessons from Maricopa County: Slow Facts versus Fast Lies in the Battle Against Disinformation](#)."

¹⁵³ Ronald J. Hansen. *AZ Central*. July 12, 2021. "[Retired election experts again offer Senate a way to check Maricopa County ballot counts](#)."

Section 7: Why I'm doing this.

At this point, I hope my principal motivation for speaking out is abundantly clear: the Ninja audit is an abomination that has so far eroded election confidence and defamed good people.

But there are other reasons too:

Section 7A: It's the truth and the right thing. Damn the torpedoes.

Since entering the political world I've learned that the top three motivating factors for many politicians are: self-preservation, self-preservation, and self-preservation.

More than any moral code, philosophical agenda, interest group, or even team red vs. team blue, many politicians will simply do whatever it takes to stay in office. Right now, a lot of Republican politicians have their fingers in the wind and think that conforming to Stop the Steal, or at least staying quiet about it, is necessary for reelection in their ruby red districts or a statewide Republican primary. So that's what they'll do. Multiple elected or hoping-to-be-elected Republicans have told me this explicitly.

It's disgusting.

After I first spoke out against Stop the Steal, I got a call from a longtime friend who'd risen quite high in the (Republican) political world. He applauded me and told me that politics ultimately *has to be* about more than winning the next election or climbing the political ladder.

So I continued. And I will continue to tell the truth because it is the right thing to do. If it means I aggravate some fellow Republicans,¹⁵⁴ or if it means my political career is very short,¹⁵⁵ so be it.

For anyone thinking about entering elected politics, I'd encourage you to write down your breaking points, your lines in the sand over which you will not cross. You might be tempted to redraw your lines as electoral concerns tighten, but if you write them down, then you'll know where you stood before you became a different species, *homo politico*.

¹⁵⁴ As I mentioned to the *Arizona Capitol Times*, if Albus Dumbledore stuck to the truth about The Dark Lord despite being kicked off the Wizengamot and stripped of his Order of Merlin award, then I should at least be able to suffer through some nasty emails and voice messages.

¹⁵⁵ I am more than a bit amused by the people who write to me to say, "You're a traitor and a liar. Maricopa County's election system is rigged, and you know it! I won't vote for you ever again." In moments of weakness I respond, "If I'm lying, and the election system really is rigged, and your vote doesn't matter, then why should I care that you're not going to vote for me? Alternatively, if the system isn't rigged and your vote *does* matter, and you vote against me, will you at least apologize after I lose the election that I was right about the election?" Somehow these messages are never well received.

I thought every politician had a line in the sand. But I'm no longer sure. If you can lie wholesale about the election and whitewash the negative ramifications of the Stop the Steal movement (e.g. January 6), especially if you were one of the people protected by the Capitol Police, then you may no longer have any limitations to what you are willing to say.

Section 7B: Team.

A leader who doesn't stand up for his team isn't a good leader. Unless somebody on my team has purposefully done something deceptive or unlawful, then I will defend the team.¹⁵⁶

Section 7C: Personal responsibility.

I'm embarrassed listening to my party concoct the most outlandish theories (Chinese ballots!) to avoid accepting the reality: we lost the top two races in Arizona.

I thought we Republicans prized individual responsibility. As I wrote for *Newsweek*:

"I hate when dissatisfied test takers blame their teachers, or say the test was poorly written, or biased, or that the tabulators didn't read the bubbles correctly.

I hate when sports teams blame referees.

I hate when people blame their economic woes on the rich, or the immigrants, or the Jews, or 'the man.'

It's whiny, it's pathetic, it's almost always false, and it inhibits the introspection we need in order to make changes.

Republicans must face it: we lost. I voted for Trump too—I'm part of the losing team."¹⁵⁷

Buck up, Republican Party.¹⁵⁸ The more time we spend looking for bamboo, the less time we spend dissecting why we lost some races, but won others.

Section 7D: Voter Turnout

I will run the Recorder's Office in an objective, non-partisan manner. The Office's success will not be measured by the political outcomes of the processes we administer. We will measure our success by our ability to competently, lawfully, and fairly execute our statutorily defined duties.

¹⁵⁶ To put it in sports terms, I was taught that if you're the pitcher, and somebody on the opposing team steals second and slides into the bag with his cleats up, then, as pitcher, it is your *absolute responsibility* to throw into the gut of the next batter as hard as you can.

¹⁵⁷ Stephen Richer. *Newsweek*. June 25, 2021. "[Five Reasons I'm Speaking Out Against The Arizona Audit.](#)"

¹⁵⁸ As Barry Goldwater told us on July 25, 1960 at the Republican Party Convention. [Link to speech.](#)

But I *am* a Republican. And I *do* care about the Arizona Republican Party.¹⁵⁹

The Ninjas' audit and the Stop the Steal movement worries me deeply as a Republican. According to every poll, the audit is decidedly *unpopular* with Arizona independents, especially when they learn about the audit's bizarre, unprofessional nature.¹⁶⁰ A winning coalition for countywide or statewide race *must* include independents—both the County and state are almost evenly divided in thirds of Republican, Democrat, and Independent/Party-Not-Declared. And yet, the audit has become the political focus of many Arizona Republicans. This has caused *Politico* to publish the headline: "Arizona ballot audit shows signs of backfiring on GOP."¹⁶¹ Locally, Republican political strategist Doug Cole and Democrat political strategist Tony Cani recently agreed that while the audit is terrible for democracy, it's fantastic for Democrats running in 2022—a year that should otherwise be favorable to Republicans.¹⁶²

More fundamentally, if we continue to tell our Republican base that elections are rigged and their votes don't matter, then some will do the only rational thing: they won't vote. This is seemingly what happened in the Georgia U.S. Senate runoff election in January.¹⁶³ The traditionally red state yielded two U.S. Senate seats to two largely-unheard-of Democrats, giving Democrats control of the U.S. Senate for the first time since 2015.¹⁶⁴ If you don't like any of the big-spending, progressive federal legislation that is being passed on party-line votes, look here.

Section 7E: "Are the shades of Pemberley to be thus polluted?"

The American conservative movement and Republican Party stands on the shoulders of intellectual giants and statesmen. Russell Kirk, Richard Weaver, Milton Friedman, Whittaker Chambers, George Will, Charles Krauthammer, James Q. Wilson, Antonin Scalia, Clarence Thomas, Sandra Day O'Connor, Ed Meese, Jack Kemp, Jean Kirkpatrick, Newt Gingrich, John Bolton, Barry Goldwater, Dick Armey, Jon Kyl, Jack Kemp.

It would be an insult to the movement if instead of learning from such thinkers we look for our ideas from people like Jovan Pulitzer, Phil Waldron, Sidney Powell, and Lin Wood. Are the shades of Pemberley to be thus polluted with charlatans and grifters? The Party will also be weakened greatly if we give leadership positions based on fealty to conspiracy theories, rather than voting records and the ability to advance conservative ideas and causes.

¹⁵⁹ Thank you so much Governor Ducey, Representative Ben Toma, and the rest of the legislative Republicans for the income tax cuts!

¹⁶⁰ Jerod MacDonald-Evoy. *AZ Mirror*. June 9, 2021. "[Poll: Arizona voters don't trust the Senate's election audit.](#)"

¹⁶¹ Marc Caputo. *Politico*. June 29, 2021. "[Arizona ballot audit shows signs of backfiring on GOP: Independent voters oppose the controversial recounting of ballots by a wide margin.](#)"

¹⁶² Dennis Welch. *AZ Family*. July 25, 2021. "[Politics Unplugged for July 25, 2021.](#)"

¹⁶³ Eric Levitz. *New Yorker – Intelligencer*. January 6, 2021. "[The Georgia Runoffs Should Scare the GOP.](#)"

¹⁶⁴ The notion that Georgia's election system had been stolen for Democrats was especially silly given that the Georgia Governor, Secretary of State, and many others with a hand in elections were, and are, Republicans.

Section 8: Moving Forward

I've spent the past three months defending the County and highlighting the inappropriateness of the Ninjas' audit.

But it's time to move on. We have a real confidence problem, and I'll do everything I can to address it over the next three years.

I reiterate my offer to Senator Fann and Senate Republicans: if you want to ditch the Cyber Ninjas, and do this thing together, and do this thing professionally, and do this thing right, then let's talk. I said in our meeting on January 14 that I consider you my allies and that I want to work together toward a solution. I feel the same way today.

As soon as this audit is over, I will launch my own efforts to address the lack of confidence. This will include legislative proposals. For example, I want to explore the idea of making it lawful to put the cast ballot images online for anyone to see. We already capture the image of every ballot, and posting them online (just the ballots) doesn't reveal the identity of the voter. This way anyone in the world who wants to run his own count or own audit, or do his own data, could do so. This will take out some of the mystery of the process and invite a crowdsourced review. No more questions about if the machines accurately read the ballots.

We'll also launch an education campaign. We want to do tours. We want to do videos. We're rebuilding our website for the first time in over 10 years to allow for easier access of information. As mentioned before, there are *so many* built-in securities and checks in the elections process that I didn't know about before taking Office, and I want to share them with the public.

And we'll continue to improve. We're in the early stages of redoing our *very, very old* voter registration database—a project I'd like to focus on. And I am so lucky to work with two of the most talented, knowledgeable, hard-working professionals as co-elections directors. They've already launched various programs such as our premium poll worker training to make sure Maricopa County voters have a positive experience.

Please. Let's improve. Let's build confidence. Let's move forward.

Appendix A: Non-Exhaustive List Of Additional Controls To Ensure Integrity

Voting By Mail¹⁶⁵

- 1) Only registered voters can request a ballot (see controls over voter registration)
- 2) Added verification of voter's address starts 90 days before an election. The law requires that the Recorder mail notices to all voters on the Early Voting List 90-days prior to an election with "Return Service Requested" endorsement to confirm the address of the voter. This mailing is intended to validate that the voter still lives at the address on file ahead of the mailing of these early ballots. It also allows the voter the opportunity to update his record if he has moved. After reconciling our voter records with these mailings, we mail ballots 27 days before an election.
- 3) Every single mailed ballot affidavit envelope is tracked throughout the entire process using an intelligent barcode. The Elections Department uses the barcode to track the envelope when it is initially mailed, during transport, while at the post office, and when the early ballot envelope is returned.
- 4) 100% of mail-in ballot signatures are reviewed by trained staff. In June 2020, all full-time staff members that perform signature verification in Maricopa County completed a statewide signature verification certification course offered by the Associated Forensic Laboratory, LLC.
- 5) The multi-tier signature verification process includes a manager review of all questioned signatures or blank envelopes, and a 2% daily audit of all good signatures before any ballot is sent to a bipartisan board for processing.¹⁶⁶
- 6) As early ballots progress through the early voting process, there are robust tracking reports and logs that detail every step of the process. These logs and sign-offs prevent illegitimate ballots from being inserted during early processing.
- 7) ONLY VERIFIED BALLOTS ARE COUNTED. Once the signature is verified on the affidavit envelope, it is authenticated and opened by a bipartisan board and sent to be counted.
- 8) Because state law requires that voter ballots are kept secret, once the ballot is separated from the affidavit envelope, it can no longer be tied back to the voter.
- 9) All uncounted ballots (Late, Unsigned, etc.) are tracked and reported in the official canvass for each election.
- 10) Voters can track their own ballot by texting "JOIN" to 628-683 or online at BeBallotReady.Vote.

¹⁶⁵ Maricopa County Elections Department. [Tabulation Security](#).

¹⁶⁶ Maricopa County Elections Department. *Just the Facts*. [May 27, 2021 edition](#).

Early Ballot Drop Boxes and Vote Centers¹⁶⁷

- 1) All Vote Centers are monitored by trained staff.
- 2) During early voting, two ballot couriers of differing parties pick up the signed and sealed early ballot packets every day the voting location or ballot drop box site is open.
- 3) During pickup, the sealed envelopes are placed in a transport bin, which is secured by a tamper evident seal.
- 4) The seals have a serial number that is logged in a transport statement, which is signed by both ballot couriers and the inspector (at Vote Centers or Drive-Through Drop Boxes) or a government official (at drop box only locations in government facilities).
- 5) All forms are reviewed and audited nightly when the transport bins are inspected at the Elections Department and sealed envelopes are removed for early ballot processing.
- 6) All paperwork and seals are retained.

Ballots / Tabulation¹⁶⁸

Central Count

- 1) Equipment is certified by the U.S. Election Assistance Commission at the federal level and the Arizona Secretary of State's Equipment Certification Advisory Committee.¹⁶⁹
- 2) Access to the Tabulation Center is restricted to those with a job responsibility or direct oversight over tabulation. Access to the tabulation center server room and vault is further restricted. This access is controlled through employee key card badges and badge readers. All badge reader attempts are logged.
- 3) All permanent staff are issued a security identification badge, which must be worn at all times while on county property. This badge allows employees access to specific areas of the building in which they are required to work.
- 4) Temporary employees that work in the tabulation center receive an identification badge only. They are not issued an access badge. Temporary staff must sign-in/out when entering or exiting the tabulation center. They also must be accompanied by a full-time employee.
- 5) Security footage is live streamed on the Elections Department website 24 hours a day, 7 days a week.¹⁷⁰
- 6) No tabulation equipment or programs are connected to the internet.¹⁷¹

¹⁶⁷ Maricopa County Elections Department. [Tabulation Security](#).

¹⁶⁸ Maricopa County Elections Department. [Tabulation Security](#).

¹⁶⁹ Katie Hobbs, Arizona Secretary of State. [Voting Equipment page](#).

¹⁷⁰ Maricopa County Elections Department. [Live Video Feeds](#).

¹⁷¹ Maricopa County Elections Department. [Just the Facts](#).

- 7) All wiring from tabulation equipment and printers is visible and can be traced from each device to the secure server which is behind glass walls and on display for public viewing and verification that the equipment is not connected to the internet.¹⁷²
- 8) Only red pens are allowed in the Ballot Tabulation center, as the equipment cannot read red ink.¹⁷³
- 9) To access the tabulation equipment, operators are required to be trained and need two sets of passwords and a physical security token. The physical security token and election program password are changed for each election.
- 10) The tabulation center only tabulates ballots that are accompanied by chain-of-custody forms. These forms document where the ballot originated in the process.
- 11) When ballots are tabulated, appointees from the political parties observe the entire process. Before and after each shift, these political party appointees verify that beginning and ending batch counts on the tabulators match. The combination of these verifications from the parties along with the chain-of-custody tracking forms ensures that no illegitimate ballots is inserted into the process.
- 12) As ballots are tabulated, the political party appointees select batches of ballots to be included in the post-election hand count. A summary results report is prepared for each batch under the observation of the appointees. The summary reports and ballots are sealed with tamper evident tape and not opened until they are opened by the political parties during the hand count.
- 13) After tabulation, ballots are immediately boxed and sealed. The boxes are moved to the secure ballot vault.
- 14) The County chairman for each political party appoints representatives to select the ballots and to perform the hand count audit.¹⁷⁴ In each of the three hand counts performed during 2020, the Republican, Democrat, and Libertarian appointees found a 100% match to the tabulation equipment results. For the November 2020 General Election, the hand count audit included a random and statistically significant sampling of both mail and Election Day ballots, verifying over 47,000 contests.¹⁷⁵

Precinct Based Tabulators

- 1) Similar to the Central Count Tabulation Equipment, the precinct-based tabulators are certified by the U.S. Election Assistance Commission at the federal level and the Arizona Secretary of State's Equipment Certification Advisory Committee.
- 2) When not in use, tabulators are securely stored on the Elections Department warehouse.

¹⁷² Maricopa County Elections Department. [Dominion elections Management System Closed \(Air Gap\) Network Diagram](#).

¹⁷³ Maricopa County Elections Department. *Just the Facts*. [April 26, 2021 edition](#).

¹⁷⁴ [2019 Arizona Elections Procedures Manual – Chapter 11](#).

¹⁷⁵ Maricopa County Elections Department. *Just the Facts*. [April 28, 2021 edition](#).

- 3) Prior to use, the precinct-based tabulators are tested for accuracy by the Elections Department. For elections that have a federal or statewide contest, the Secretary of State independently verifies accuracy.
- 4) Prior to readying the tabulators for use on Election Day, poll workers document and verify that no ballots or results have been preloaded on the tabulator.¹⁷⁶
- 5) On Election Day, voters insert ballots into the tabulators. The results are stored on encrypted memory cards. The memory cards must be programmed together within the Ballot Tabulation Center of the Elections Department. A tabulator will only work if both memory cards that were programmed together are inserted inside the tabulator and the tabulator is activated with a physical security token and password. The physical security token and password are changed for each election.
- 6) After inserting the memory cards, the precinct-based tabulators are secured with port blockers and affixed with tamper evident seals. To verify the tabulators have not been tampered with, the seal numbers are logged and verified by bi-partisan poll workers prior to use.
- 7) On Election Night, the tabulators are closed. The poll workers log the number of ballots tabulated and prepare the ballots and memory card for transport to the Elections Department. The ballots are securely stored in black canvass bags with tamper evident seals. A single memory card is transferred to a secure package. A team of bipartisan poll workers delivers both the ballots and the memory card to the Elections Department.¹⁷⁷
- 8) The Election Day ballots are stored in the sealed canvass bags and a locked cage until after the state certifies the election and the contest period is complete.
- 9) The packages containing the memory cards are opened under the observation of political party appointees. The same appointees observe the loading of results from the memory cards into the Election Reporting system.

Checking In Voters at Vote Centers

- 1) Maricopa County has a secure, award-winning voter check-in system at all voting locations called the SiteBook.
- 2) The SiteBook system prevents against the possibility of double voting. It securely connects to the voter registration system using proprietary software and a virtual private network connection for enhanced security.¹⁷⁸
- 3) When voters check-in at a voting location, the SiteBook does a real-time check of the voter database, ensuring the voter is eligible to vote in the election and that the voter has not yet cast a ballot. If a ballot has been issued but not returned, the SiteBook

¹⁷⁶ Maricopa County. *YouTube*. September 2, 2020. "[Using and Troubleshooting the Tabulator](#)."

¹⁷⁷ Maricopa County. *YouTube*. July 8, 2020. "[Closing the Tabulator](#)."

¹⁷⁸ Maricopa County Elections Department. *Just the Facts*. [May 11, 2021 edition](#).

cancels the already issued ballot. If a ballot has been issued and returned for that voter, it notifies the voter of a returned ballot and will not issue the voter a new standard ballot. The ability to track in real time each ballot issued and received back by the Elections Department safeguards against double voting.

- 4) The SiteBook will not allow a voter to proceed through the check-in process without a poll worker scanning his assigned badge and inputting the type of ID provided by the voter.