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COMMITTEES:
Rules, Chairman

Arizona State Senate

May 7, 2021

Pamela S. Karlan
Principal Deputy Assistant Attorney General
United States Department of Justice, Civil Rights Division
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Washington, D.C. 20530
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Dear Ms. Karlan:

Thank you for your letter of May 5, 2021. I am confident I speak for the entire Arizona State Senate when I say that we share your commitment to protecting the integrity of election materials and safeguarding the constitutional rights of all Arizona voters. To that end, the ongoing audit of the November 2020 general election returns in Maricopa County are governed by comprehensive and rigorous security protocols that will fully preserve all physical and electronic ballots, tabulation systems, and other election materials.

As a preliminary matter, your stated concern that these records “are no longer under the ultimate control of state and local elections officials” is misplaced. As you know, state and local governments routinely enlist the services of outside private vendors to administer election-related functions that demand substantial manpower or other logistical resources; indeed, Maricopa County enlisted the help of private vendors in connection with printing, mailing, and processing the very materials at issue in the audit. In that vein, the Senate has similarly retained private vendors to assist in carrying out the audit. Questions of physical security, however, were expressly reserved for the Arizona State Senate in the prime vendor contract. And in practice, the Senate’s appointed liaison, former Arizona Secretary of State Ken Bennett, is present at the audit site virtually every day, and is integrally involved in overseeing every facet of the audit including, most importantly for purposes of your letter, the security of the site and election materials. I am in regular communication with Secretary Bennett and remain fully apprised of all material developments in the audit.

After some early and well publicized challenges, the security protocols at the audit site have been made very strong. Ballots and electronic tabulation equipment are subject to continuous video surveillance (which is live streamed to the general public online) and are under the watchful eye of armed security personnel twenty-four hours a day. All means of ingress to the facility remain locked at all times and attended by security guards, and a security guard is posted immediately adjacent to the area in which ballots are stored. All ballot review and processing occurs within the

confines of a carefully documented chain of custody and, from the moment the counting began, all audit team members and observers alike have been strictly prohibited from bringing into the demarcated ballot processing area any electronic device or any instrument (*e.g.*, a blue or black ink pen) that could be used to spoliage ballots. More to the point, not a single ballot or other official election document has been destroyed, defaced, lost, or adulterated during the course of the audit, and we are confident that our strong security infrastructure has minimized to the greatest extent feasible the risk of any such breaches in the future. We are unaware of any significant security breach since the day the ballots were delivered; this is undoubtedly due to the thorough protocols implemented since that time. Upon the audit's completion, all voting materials and devices will be remitted to the custody of Maricopa County officials.

With respect to voter canvassing, the Senate determined several weeks ago that it would indefinitely defer that component of the audit. If and to the extent the Senate subsequently decides that canvassing is necessary to the successful completion of the audit, its vendor will implement detailed requirements to ensure that the canvassing is conducted in a manner that complies fully with the commands of the United States Constitution and federal and state civil rights laws. Specifically, persons conducting the canvassing:

- Will not select voters or precincts for canvassing based on race, ethnicity, sex, party affiliation, or any other legally protected status;
- Will not wear or display any badges, insignia, or other symbols suggesting, or make any statements implying, or refrain from correcting any apparent misunderstanding concerning, an affiliation with law enforcement, immigration enforcement, tax enforcement, or the military;
- Will not carry a firearm or other weapon when conducting canvassing;
- Will not ask any voter to identify any candidates for whom he or she voted;
- Will wear a brightly colored shirt identifying the individual as an employee of the Senate's retained vendor;
- Will clearly state at the beginning of the conversation that canvassed voters are not the subject of the investigation and that their participation in the canvass is entirely voluntary; and
- Will use a pre-approved, standardized script with non-leading questions.

If canvassing is necessary to complete the audit, we believe these protocols, which will be reinforced by thorough training programs, would permit the Senate to discharge its legislative oversight and investigation functions without compromising the rights or privacy of any voter.

Since the inception of the audit, I have emphasized the crucial importance of transparency and collaboration to its success. To that end, I am happy to provide any additional information and to continue a constructive dialogue with your office to advance our common objective of protecting the rights of voters and the integrity of our elections.

Thank you.



Karen Fann, President
Arizona State Senate