



CityScape, One E. Washington St., Ste. 1200, Phoenix, AZ 85004 • (602) 650-2000

August 18, 2021

Edward F. Novak
602.650.2020
602.532.7128 Fax
enovak@polsinelli.com

VIA FIRST-CLASS MAIL AND E-MAIL

Michael S. Catlett
Deputy Solicitor General
Solicitor General's Office
2005 North Central Ave.
Phoenix, Arizona 85004
michael.catlett@azag.gov

Re: Response to Legislator Request for Investigation

Dear Deputy Solicitor General Catlett:

On behalf of the Maricopa County Board of Supervisors (“MCBOS”), we respond to your letter dated August 6, 2021 regarding Senator Sonny Borrelli’s Request for Investigation (the “Request”) as to MCBOS’ alleged “failure to comply with valid and enforceable legislative subpoenas that originated from the AZ State Senate.” [Request, [Exhibit A](#)]. Specifically, Senator Borrelli claims that MCBOS is acting in conflict with A.R.S. §§ 41-1151, 1153-54 and 16-624 [*see* Ex. 1 at 1] by failing to produce certain documents and electronic materials requested in a legislative subpoena issued on July 26, 2021 (the “Subpoena”). [Ex. A at Attachment; *see also* Subpoena, [Exhibit B](#)].

The allegations in the Request are without merit. The Senate’s authority to enforce the Subpoena through its statutory contempt powers expired on June 30, 2021 with the adjournment of the legislative session. Accordingly, any action taken by MCBOS in relation to the Subpoena did not “violate[] state law or the Constitution of Arizona,” and we respectfully ask that your Office “take no further action” regarding the Request. A.R.S. § 41-194.01(A), (B)(3).¹

I. Factual Background

The First Regular Session of the Fifty-Fifth Legislature adjourned sine die on June 30, 2021. Twenty-six (26) days later, on July 26, 2021, Karen Fann, as President of the Arizona Senate,

¹ MCBOS does not waive and expressly reserves the right to challenge the constitutionality of A.R.S. § 41-194.01 in any future proceedings.

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and Warren Peterson, as Chairman of the Arizona Senate Judiciary Committee jointly issued the Subpoena commanding MCBOS to produce additional documents and electronic materials relating to the November 3, 2020 general election.² [Ex. B]. The Subpoena enumerated six separate categories of items for production by August 2, 2021, including the items identified by Senator Borrelli in the Request which are as follows:

3. All user names, passwords, pins and/or security keys or tokens required to access, or otherwise relating to, any and all ballot tabulation devices used in connection with the November 3, 2020 general election...including, but not limited to, administrator access or any other level of access required to access and print the configuration of the ICP2 devices....
...
5. All routers used in connection with the November 3, 2021 general election, or virtual images of the same, and the public IP of each such router.
6. All splunk logs, network logs, net flows, or similar data related with systems associated in any way with the administration of the November 3, 2020 general election, for the time period beginning 60 days before the election and ending 90 days after the election.

[*Id.* at Ex. A; Ex. A at Attachment].

On August 2, 2021, MCBOS provided written responses and objections to the Subpoena (the “Objection”). [Objection, Exhibit C].³ In pertinent part, the Objection advises that: (i) MCBOS “has already produced every responsive record in its custody and control” relating to Request No. 3, and it does not possess any passwords to access the ballot tabulation devices used in connection with the general election [*see* Ex. C at 2]; and (ii) in lieu of producing its routers (which would put sensitive, confidential data at risk, render law enforcement vulnerable to hackers, and disrupt operations costing millions of dollars), MCBOS has already provided numerous items in satisfaction of Request Nos. 5 and 6—*i.e.*, windows event logs, precinct-based tabulator logs, central count tabulator logs, election management system workstations, sever logs, and all of the

² This is the *third* legislative subpoena issued to MCBOS for election-related materials since the November 3, 2020 general election.

³ It is not necessary for MCBOS to address all of its written responses and objections to the Subpoena in this correspondence which is limited to the subject of your Office’s investigation: whether MCBOS has “violate[d] state law or the Constitution of Arizona.” A.R.S. § 41-194.01(A). MCBOS does not waive and expressly reserves its rights to reassert any grounds, objections and defenses to the Subpoena in future proceedings.

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election tabulation equipment used in the general election—which sufficiently enable the Senates’ auditor to determine whether the tabulation equipment connected to the internet at any point during the election. [*Id.* at 3].

II. Relevant Law

The statutory scheme of A.R.S. § 41-1151 *et seq.* governs the issuance and enforcement of legislative subpoenas. Specifically, “the presiding officer of either house or the chairman of any committee” is authorized to issue a subpoena pursuant to A.R.S. § 41-1151, and the senate or the house is authorized to enforce the subpoena through the contempt powers conferred under A.R.S. §§ 41-1153, 1155.⁴ The power of the legislature to punish for contempt, however, expires with the adjournment of the legislative session. *See Buell v. Superior Court of Maricopa County*, 96 Ariz. 62, 64, 391 P.2d 919, 921 (1964).

A.R.S. § 41-1153 provides:

A. If a witness neglects or refuses to obey a legislative subpoena, or, appearing, neglects or refuses to testify, the senate or the house may, by **resolution** entered in the journal, commit him for contempt.

B. A witness neglecting or refusing to attend in obedience to a subpoena may be arrested by the sergeant-at-arms and brought before the senate or house upon authority of a copy of the **resolution** signed by the president or speaker, and countersigned by the secretary or chief clerk.

(Emphasis added).

The Arizona legislature cannot introduce, vote or enter a resolution in the journal when it is not in session. The powers of contempt conferred under A.R.S. § 41-1153 therefore dissolve upon adjournment until a new legislative session convenes.

Similarly, A.R.S. § 41-1155 provides, in pertinent part:

A. Each house of the legislature may punish as a contempt, and by

⁴ A.R.S. § 41-1151 *et seq.* does not confer power upon Arizona courts to enforce a legislative subpoena. *See Maricopa County v. Fann*, 2021 WL 804446, at *11 (Ariz.Super.) (explaining the legislature has the power to enforce a subpoena “in the manner set forth in the statutes” and “[t]his Court has serious concerns about whether it has jurisdiction to enforce [a legislative subpoena].”).

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imprisonment, a breach of its privileges, or the privileges of its members, but only for one or more of the following offenses:

...

3. Refusing to attend, or to be examined as a witness, either before the house or a committee, or before any person authorized by the house or by a committee to take testimony in legislative proceedings.

...

B. No term of imprisonment shall extend beyond final adjournment of the session.

(Emphasis added).

A.R.S. § 41-1155(B) is unambiguous: The legislature’s power to enforce a subpoena by imprisonment expires at the end of the legislative session.

III. The Senate Failed to Enforce the Subpoena Prior to Adjournment of the Session

The relevant facts and statutory authority, as outlined above, clearly establish the Request is meritless. The Subpoena was issued on July 26, 2021—*i.e.*, twenty-six (26) days after adjournment of the legislative session. Accordingly, even if MCBOS failed to comply with the Subpoena as alleged in the Request (it did not as articulated in the Objection [*see* Ex. C]), the Senate cannot use its powers of contempt under A.R.S. §§ 41-1153, 1155 to enforce the Subpoena.⁵

The Arizona Supreme Court’s decision in *Buell v. Superior Court of Maricopa County*, 96 Ariz. 62, 391 P.2d 919 (1964) is instructive on this point. In *Buell*, an attorney refused to comply with a legislative subpoena for production of documents claiming an attorney-client privilege. *Id.* at 64, 391 P.2d at 921. The Arizona House of Representatives, pursuant to A.R.S. § 41-1153, adopted two resolutions finding the attorney guilty of contempt, and he was taken into custody by the sergeant-at-arms for the House. *Id.* Upon application for writ of habeas corpus, the superior

⁵ Contrary to the assertions in the Request, A.R.S. § 16-624 (requiring “the officer in charge of elections” to “deposit the package or envelope containing the ballots in a secure facility managed by the county treasurer, who shall keep it unopened and unaltered for twenty-four months for elections for a federal office”) is **not** relevant to this investigation. The Request does not allege a violation of A.R.S. § 16-624, and as stated in the Objection, MCBOS has “already provided digital images of ballot envelopes” used in the November 3, 2020 general election and the County Recorder “is prepared to deliver to the Senate the nearly two million ballot envelopes” received in the general election upon request.

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court held that the attorney's imprisonment was unlawful. *Id.* The Supreme Court granted certiorari on March 27, 1964 and announced its decision, vacating the trial court's order, three days later—*i.e.*, the case had to be “decided immediately” because “the power of the legislature to punish for contempt ends with its adjournment” which was expected to occur on April 1, 1964. *Id.* at 64–65, 391 P.2d at 921. In vacating the trial court's order, the Supreme Court held that the resolutions for contempt adopted by the House were valid and sufficient to satisfy the statutory requirements, and the attorney-client privilege did not apply under the circumstances of the case. *Id.* at 67, 69, 391 P.2d at 923-24.

Here, unlike *Buell*, the Senate did not follow the proper procedure to enforce the Subpoena—*i.e.*, the Senate did not issue the Subpoena prior to the end of the legislative session, and as a result, its power to enforce the Subpoena by contempt expired. The Senate cannot now adopt a resolution, after adjournment sine die, finding MCBOS guilty of contempt for purported violations of A.R.S. § 41-1151 *et seq.*

IV. Conclusion

For the reasons outlined above, the Senate's authority to enforce the Subpoena expired on June 30, 2021, there has been no resolution holding MCBOS in contempt, and therefore, no violation of “state law or the Constitution of Arizona.” We respectfully ask that your Office “take no further action” regarding the Request. A.R.S. § 41-194.01(B)(3).

If you wish to discuss this matter further, please do not hesitate to give me a call. There should be a mechanism to resolve this issue without expensive litigation and the use of court resources.

Sincerely,



Edward F. Novak
Michelle M. Buckley

EFN:ec

EXHIBIT A



Office of Arizona Attorney General
Mark Brnovich



Legislator Request for Attorney General Investigation of
 Alleged State-Law Violation by County, City, or Town (Continued)

*Identify the member(s) of the Legislature submitting this request for investigation (attach additional sheet if necessary):

Senator Sonny Borrelli

*Provide a contact person for communications from the Attorney General's Office regarding this request (may be a Legislator listed above or an employee of the Legislature).

*Name: Sonny Borrelli

*Email address: sborrelli@azleg.gov

*Phone number: 602.926.5051

*Mailing address: 1700 W Washington

Senate Wing

Phoenix, AZ 85007

*The specific question for the Attorney General to investigate is: MCBOS failure to comply with valid and enforceable legislative

subpoenas that originated from the AZ State Senate.

*The name of the county, city, or town that is the subject of this request: Maricopa County (Maricopa Co. Bd. of Supervisors)

*The specific ordinance, regulation, order, or other official action adopted or taken by the governing body of the county, city, or town and the date thereof: Actions taken via MCBOS executive session and the

Maricopa County Superior Ct.

*The specific Arizona statute(s) and/or constitutional provision(s) with which the action conflicts :

ARS 41-1151, 41-1153, 41-1154, ARS 16-624



Office of Arizona Attorney General

Mark Brnovich

Legislator Request for Attorney General Investigation of Alleged State-Law Violation by County, City, or Town (Continued)



*All relevant facts of which you are aware (attach separate sheet if necessary):

MCBOS non-compliance with valid and enforceable subpoenas issued by the AZ State Senate related to routers, passwords, security keys or tokens, splunk and network logs, and all precinct tabulators. (Please see attached)

*All relevant legal authority, including federal and state case law, of which you are aware (attach separate sheet if necessary):

ARS 41-1151, 41-1153, 41-1154

*Any litigation involving this issue of which you are aware (include case name, number, and court where filed):

Check this box if you are attaching supporting documentation. [checked]

NOTE: This form and other information submitted to the Attorney General's Office is subject to the public records law, A.R.S. § 39-121 et seq.

I, a current member of the Legislature, verify that I and the other Legislators listed on the previous page (if any) are submitting this request for investigation under A.R.S. § 41-194.01.

*First Name: SONNY *Last Name: BORRELLI *Signature: [Signature] *Date: 8.3.21

Please submit the completed form to: Arizona Attorney General's Office Attn: Civil Litigation Division/A.R.S. § 41-194.01 2005 N Central Avenue Phoenix, Arizona 85004 cldinvestigations@azag.gov

ATTACHMENT

Senator Sonny Borrelli Request for Attorney General Investigation of Alleged State-Law Violation by Maricopa County (ARS 41-194.01)

Maricopa County Board of Supervisors has failed to provide the following:

- All user names, passwords, pins and / or security keys or tokens required to access, or otherwise related to, any and all ballot tabulation devices used in connection with the November 3, 2020 general election in Maricopa County, including, but not limited to, administrator access or any other level of access required to access and print the configuration of the ICP2 devices. Any materials that the County does not possess but which it has a right to access was also requested.
- All routers used in connection with the November 3, 2020 general election, or virtual images of the same, and the public IP of each such router.
- All splunk logs, network logs, net flows, or similar data related with systems associated in any way with the administration of the November 3, 2020 general election, for the time period beginning 60 days before the election and ending 90 days after the election.

EXHIBIT B

Joe Kubacki
Sergeant at Arms

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



COMMITTEES:
Rules, Chairman

Arizona State Senate

*Fifty-Fifth Arizona Legislature
First Regular Session*

LEGISLATIVE SUBPOENA

TO: Maricopa County Board of Supervisors

YOU ARE COMMANDED TO APPEAR at the date, time, and place set forth below:

Date & Time: August 2, 2021 at 1:00 p.m.

Place: Arizona Senate
Arizona State Capitol
1700 West Washington Street
Phoenix, Arizona 85007

You or your authorized representative must, at the date, time and location set forth above, appear and produce the items set forth in Exhibit A. The Senate reserves the right to require your testimony upon appearance but does not anticipate doing so. In the alternative, you may comply with this subpoena by providing, no later than the date and time set forth above, reasonable access for inspection by the Senate or its authorized representatives the items set forth in Exhibit A. Please contact Garth Kamp upon your arrival at the Senate.

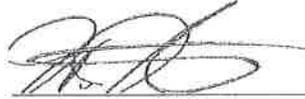
**FAILURE TO COMPLY WITH THIS SUBPOENA MAY CONSTITUTE CONTEMPT
OF THE LEGISLATURE, PURSUANT TO A.R.S. § 41-1153**

2021 JUL 26 PM 3:39
CLERK
BOARD OF SUPERVISORS
MARICOPA COUNTY
MU
Hend
Delane

Executed this 26th day of July, 2021.

A handwritten signature in cursive script that reads "Senator Karen Fann".

Karen Fann, President
Arizona State Senate

A handwritten signature in cursive script that reads "Warren Petersen".

Warren Petersen, Chairman
Senate Judiciary Committee

EXHIBIT A

1. All reports, findings and other documents concerning any breach of the voter registration server, the Maricopa County Recorder's Office systems, or any other aspect of the Maricopa County elections systems at any time within six months of the November 3, 2020 general election.
2. All ballot envelopes received in connection with the November 3, 2020 general election, or digital images of the same.
3. All user names, passwords, pins and / or security keys or tokens required to access, or otherwise relating to, any and all ballot tabulation devices used in connection with the November 3, 2020 general election in Maricopa County. This is specifically for all levels of access, including, but not limited to, administrator access or any other level of access required to access and print the configuration of the ICP2 devices. This request also includes any materials that the County does not possess but which it has a right to access.
4. All Maricopa County registered voter records to date, with any and all change histories including but not limited to the following:
 - The field that was added, removed, or changed
 - A timestamp (date and time) for the change
 - Identifying information for the individual who made the change (internal employee ID and/or IP address)
5. All routers used in connection with the November 3, 2020 general election, or virtual images of the same, and the public IP of each such router.
6. All splunk logs, network logs, net flows, or similar data related with systems associated in any way with the administration of the November 3, 2020 general election, for the time period beginning 60 days before the election and ending 90 days after the election.

EXHIBIT C



Maricopa County Attorney

Allister Adel

August 2, 2021

Karen Fann
Senate President
Fifty-fifth Legislature
1700 West Washington, Senate
Phoenix, Arizona 85007-2804
kfann@azleg.gov

SENT VIA EMAIL TO:
Kory Langhofer, Esq.
Counsel of Record for Senate President Fann
kory@statecraft.com

Re: Your July 26, 2021 legislative subpoena to the Board of Supervisors

Dear Senate President Fann,

On behalf of her client, the Maricopa Board of Supervisors, the County Attorney acknowledges receipt of your subpoena dated July 26, 2021. Without waiving the Objections noted at the conclusion of this letter, as well as reserving the right to raise additional Objections during the gathering of materials and the course of production, we hereby respond as follows:

1. "All reports, findings and other documents concerning any breach of the voter registration server, the Maricopa County Recorder's Office systems, or any other aspect of the Maricopa County elections systems at any time within six months of the November 3, 2020 general election"

The Board of Supervisors is not aware of any "breach", as stated above, occurring during this time period, or any other time period relevant to the November 3, 2020 election. The Board of Supervisors is aware of an incident in November 2020 wherein an individual programmatically accessed the County Recorder's website and gathered publicly available information for a short period of time. The Recorder's website is in no way connected to the air-gapped tabulation system in the secure room where ballots are counted. To the extent you are requesting records related to this incident, you recently made a public records request to both the Maricopa County Recorder and the Board of Supervisors requesting similar information. As always, the Board of Supervisors will comply with your public records request promptly consistent with Arizona law. We hereby request that you accept our response to your public records request in lieu of production pursuant to this subpoena.

The Board of Supervisors will not, however, provide responsive documents today, to the extent they exist and are subject to disclosure by law. One week's notice is not sufficient time to search for all potentially responsive materials. As the Senate has demonstrated in its interactions with American Oversight and *The Arizona Republic*, the gathering of correspondence and documents is a sizeable task that will take longer than one week, as the statute contemplates and the case law confirms. Further, on the same day you served these subpoenas, your representatives gave three days-notice to Maricopa County to pick up its over 2 million ballots from the Wesley Bolin building. And, then fewer than 24-hours prior to the scheduled retrieval of ballots, the representatives informed the county that the over 300 hundred central count tabulators ("ICP2 devices") in the Senate's possession would need to be retrieved as well. The auditors explained the urgency was the result of your lease ending on Saturday, July 31, 2021, although it is difficult to understand how they were not aware of this date sooner. Given this short notice, the same elections department staff who will be tasked with gathering the materials responsive to this item, were forced to dedicate nearly all of last week to planning for and efficiently retrieving these materials.

2. "All ballot envelopes received in connection with the November 3, 2020 general election, or digital images of the same."

Maricopa County already provided digital images of ballot envelopes used in the November 3, 2020 General Election. The County produced these items on April 22, 2021 on Ballot Pallet 46. If Cyber Ninjas have misplaced them or are unable to find them, please direct them to the 5-terabyte Lacie hard drive that includes the subfolder named AFFIDAVITS. If Cyber Ninjas are unable to find them there, the County can produce them again.

Alternatively, our client the Recorder is prepared to deliver to the Senate the nearly two million ballot envelopes he received in the November 3, 2020 election. However, he will not deliver those items until requested and until his office receives further confirmation that appropriate security measures are in place. We assume, as you informed us with respect to your previous subpoenas, the Senate does not have adequate facilities at 1700 West Washington Street, Phoenix, AZ 85007 to safely store the mail-in ballot envelopes of hundreds of thousands of Maricopa County voters.

3. "All user names, passwords, pins and/or security keys or tokens required to access, or otherwise relating to, any and all ballot tabulation devices used in connection with the November 3, 2020 general election in Maricopa County. This is specifically for all levels of access, including, but not limited to, administrator access or any other level of access required to access and print the configuration of the ICP2 devices. This request also includes any material that the County does not possess but which it has a right to access."

Since serving this subpoena, the Senate returned all the ICP2 devices used in the November 3, 2020 election to Maricopa County rendering this demand for production moot.

Maricopa County has already produced every responsive record in its custody and control. Maricopa County does not have passwords that allow for administrative access of the Dominion tabulation equipment, which is not needed to conduct elections. Those passwords are in the exclusive custody and control of Dominion Voting Systems, and the County has no right "to access" them.

4. "All Maricopa County registered voter records to date, with any and all change histories including but not limited to the following:

- **The field that was added, removed, or changed**
- **A timestamp (date and time) for the change**
- **Identifying information for the individual who made the change (internal employee ID and/or IP address)"**

The Board of Supervisors has no records responsive to this request. The voter registration database is under the statutory control of the Recorder.

Our office has spoken with our client, the Recorder, and confirmed he intends to work with Senate President Fann to produce documents responsive to the similar public records request you recently sent to his office.

5. "All routers used in connection with the November 3, 2020 general election, or virtual images of the same, and the public IP of each such router."

The Board of Supervisors will not produce its routers. Maricopa County repeatedly has addressed the significant security risks posed by producing its routers. Specifically, providing these routers puts sensitive, confidential data belonging to Maricopa County citizens – including social security numbers and protected health information -- at risk. Further, the Maricopa County Sheriff has explained that the production of the routers would render MCSO internal law enforcement communication infrastructure extremely vulnerable to hackers, be they criminal cartels, terrorists, or foreign powers. Likewise, it would compromise and damage intergovernmental relationships formed by multi-agency law enforcement task forces. The dismantling of the County's routers would also severely disrupt County operations and would cost the County millions of dollars.

We understand the Senate's interest in examining the routers relates to determining whether the tabulation equipment connected to the internet at any point during the November 2020 election. IT DID NOT. No routers have ever been connected to the tabulation equipment or the Election Management System. Two EAC-accredited, professional elections technology companies confirmed that fact. Their public reports are available at <https://www.maricopa.gov/5681/Elections-Equipment-Audit>. These audits confirmed Maricopa County uses an air-gapped system in its tabulation room, meaning the ballot counting equipment is never connected to the Internet and is completely separated from the Maricopa County network. The audits also confirmed there are no routers connected to the tabulation system and there never have been.

As we told you in our letter dated May 7, 2021, the Board of Supervisors will not produce the routers it uses for other county business.

However, should Cyber Ninjas wish to independently assess whether the tabulation equipment connected to the Internet, Maricopa County already provided numerous items that would enable them to make this determination. These items included:

- (1) Windows event logs
- (2) Precinct-based tabulator logs
- (3) Central Count tabulator logs
- (4) Election Management System workstations
- (5) Server logs
- (6) All of the Election Tabulation Equipment that was used in the November General Election.

all provided.

Anyone with sufficient knowledge and understanding of elections is able to confirm, through a review of these logs or through an inspection of the tabulators, that the equipment was not connected to the internet and had no wifi devices installed.

Furthermore, the Maricopa County EMS is not, and never has been, connected to the Internet; therefore, nothing related to the EMS is on the routers. So, there is nothing to gain and far too much potential harm to risk removing all of the County's routers and producing them to the Senate's designees hired for the purpose of examining the Maricopa County EMS.

6. "All splunk logs, network logs, net flows, or similar data related with systems associated in any way with the administration of the November 3, 2020 general election, for the time period beginning 60 days before the election and ending 90 days after the election."

As addressed in response to Request #5, the County already provided Windows event logs, precinct-based tabulator logs, and server logs relating to the November 3, 2020 election. And, as previously addressed, the County will not

produce its router splunk logs for the same reasons it will not provide its routers. Production of the router splunk logs would, among other things, put sensitive and confidential information about Maricopa County citizens at risk and endanger the lives of law enforcement personnel.

OBJECTIONS

The Board of Supervisors notes the following initial Objections to the subpoena. It reserves its right to raise additional Objections and/or legal defenses to the subpoena.

1. The Board of Supervisors objects to this subpoena because it was issued while the Senate was out of session. It is not evident that a subpoena issued when the Senate is adjourned is lawful.

2. The Board of Supervisors objects to this subpoena because of its lack of adequate notice. A courtesy copy of the subpoena was emailed to our office on Friday, July 23, 2021, but was not served on the Board until Monday, July 26, 2021. The subpoena seeks production of a substantially large amount of records, which would be impracticable to produce on August 2, 2021 by 1:00 p.m.—a mere five business days after the subpoena was served. This is an unreasonably short period of time—especially considering (1) the Senate is not currently in session; and (2) is not anticipated to be in session again until January, 2022.

3. The Board of Supervisors objects to this subpoena to the extent that it is an abuse of process or designed merely to harass.

4. The Board of Supervisors objects to this subpoena to the extent that it is overbroad or unduly burdensome.

5. The Board of Supervisors objects to this subpoena to the extent that it seeks records already in the Senate's custody and control.

6. The Board of Supervisors objects to this subpoena to the extent that it seeks records in the custody and control of someone other than the Board of Supervisors.

7. The Board of Supervisors objects to this subpoena to the extent that it has been mooted by the actions of the Senate, Senate President Fann, Senator Petersen, or their designees.

8. The Board of Supervisors objects to this subpoena to the extent that it seeks records that are protected by the attorney-client privilege.

9. The Board of Supervisors objects to this subpoena to the extent that it seeks records that may not lawfully be produced.

10. The Board of Supervisors objects to this subpoena to the extent that it was not authorized by a vote of the Senate.

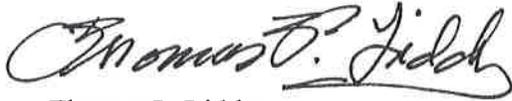
11. The Board of Supervisors objects to this subpoena to the extent that it, and the investigation it purports to support, has not been authorized by a vote of the Arizona Senate Committee with jurisdiction over government operations and elections.

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Sincerely,

A handwritten signature in black ink, reading "Thomas P. Liddy". The signature is written in a cursive style with a prominent loop at the end of the last name.

Thomas P. Liddy
Civil Division Chief
Maricopa County Attorney's Office