



KATIE HOBBS
SECRETARY OF STATE

May 20, 2021

VIA EMAIL ONLY

Maricopa County Board of Supervisors

Chairman Jack Sellers, District 1

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Supervisor Steve Chucri, District 2

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Supervisor Clint Hickman, District 4

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Supervisor Steve Gallardo, District 5

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RE: SUBPOENAED ELECTION EQUIPMENT

Dear Supervisors,

I am writing to express my concerns about Maricopa County's election equipment that was turned over to Senate President Karen Fann and Senator Warren Petersen and their agent, Cyber Ninjas, pursuant to the January 12, 2021 subpoena, including components of the certified Dominion Democracy Suite 5.5B voting system. I understand Cyber Ninjas has begun returning the election equipment to the County. I have grave concerns regarding the security and integrity of these machines, given that the chain of custody, a critical security tenet, has been compromised and election officials do not know what was done to the machines while under Cyber Ninjas' control.

Indeed, such loss of custody constitutes a cyber incident to critical infrastructure—an event that could jeopardize the confidentiality, integrity, or availability of digital information or information systems.¹ Therefore, my Office consulted with election technology and security experts, including at the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency, regarding the appropriate next steps, and each unanimously

¹ See Dep't of Homeland Security, Cyber Incident Reporting, *available at* <https://www.dhs.gov/sites/default/files/publications/Cyber%20Incident%20Reporting%20United%20Message.pdf>.

advised that once election officials lose custody and control over voting systems and components, those devices should not be reused in future elections. Rather, decommissioning and replacing those devices is the safest option as no methods exist to adequately ensure those machines are safe to use in future elections. As such, my Office is urging the County not to re-deploy any of the subpoenaed machines that it turned over to the Senate in any future elections. Instead, the County should acquire new machines to ensure secure and accurate elections in Maricopa County going forward.

A fundamental requirement to ensure the security and integrity of election equipment includes maintaining strict access limitations and a clear chain of custody to prevent both intentional and inadvertent tampering. Arizona's election procedures enumerate detailed requirements to protect voting equipment from these threats.² Federal election standards also set best practices, which require voting equipment to remain securely stored in facilities that prevent unauthorized access.³ As you know, the Maricopa County Elections Department upholds strict chain of custody procedures for its voting equipment by securing equipment in limited-access facilities, logging access to the equipment, and air-gapping equipment at all times.

However, once the subpoenaed machines were turned over to the Senate and Cyber Ninjas, it is unclear what, if any, procedures were in place or followed to ensure physical security and proper chain of custody. Indeed, our expert observers, as well as multiple news reports, have noted troubling security lapses. And Cyber Ninjas has failed to provide full transparency into what they did with the equipment. No election official or expert observer designated by my Office was allowed to remain with the equipment for the duration of the Cyber Ninjas' processing and handling of the equipment, nor did Cyber Ninjas provide a continuous, clearly visible livestream of the area where voting equipment was stored and handled. The lack of physical security and transparency means we cannot be certain who accessed the voting equipment and what might have been done to them.

Unfortunately, after a loss of physical custody and control, no comprehensive methods exist to fully rehabilitate the compromised equipment or provide adequate assurance that they remain safe to use. While the machines could be put through an intensive and costly forensic examination by an accredited, national forensics laboratory, even after such forensic examination, machines are generally not recommissioned given that the forensic analysis cannot be guaranteed to locate all potential problems.

Considering the potential impact of decommissioning the subpoenaed equipment, including on taxpayer dollars and County operations, my Office did not reach this decision lightly. However, given the circumstances and ongoing concerns regarding the handling and security of the equipment, I believe the County can agree that this is the only path forward to ensure secure and accurate elections in Maricopa County in the future.

To be clear, this letter pertains only to the specific pieces of subpoenaed election equipment that the county turned over to the Senate and its contractors, and not to the underlying

² Elections Procedures Manual, Chapter 4, Section III, at pages 95 - 98.

³ See, e.g., U.S. Election Assistance Commission, Election Management Guidelines, Chap. 3, available at https://www.eac.gov/sites/default/files/eac_assets/1/6/260.pdf.

Dominion voting system, which remains certified for use in Arizona, nor any other election equipment that the County did not turn over to the Senate and its contractors.

If the County intends to re-deploy the subpoenaed equipment, over which the County lost custody and control, for use in future Arizona elections, please notify my Office as soon as possible, and no later than July 1, 2021, so that we may properly consider decertification proceedings pursuant to A.R.S. § 16-442 as to the subpoenaed equipment.

Thank you for your prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'KH' followed by a long horizontal flourish.

Katie Hobbs
Arizona Secretary of State

cc:

Stephen Richer, Maricopa County Recorder
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Scott Jarrett, Director of Election Day and Emergency Voting,
Maricopa County Elections Department
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