

April 29, 2021

Chris Herren
Chief, Voting Section
Civil Rights Division
U.S. Department of Justice
1800 G St., N.W.
Room 7254 – NWB
Washington, DC 20006
VIA FAX 202-307-3961

Re: Request for election monitoring

Dear Mr. Herren,

We write to request that you deploy federal monitors to the Arizona Veterans Memorial Coliseum, where agents of the Arizona Senate are reviewing ballots as part of a so-called audit of votes cast for federal office in the 2020 general election in Maricopa County. This work is being conducted by Cyber Ninjas, a firm retained by the state senate, along with its subcontractors, as part of a review of election results, or “audit,” commissioned by the state senate. It includes the handling and review of approximately 2.1 million ballots and other election materials, which a court compelled Maricopa County election officials to transfer into the senate’s custody after the senate issued a subpoena for them.

We are very concerned that the auditors are engaged in ongoing and imminent violations of federal voting and election laws. Specifically, we believe that the senate and its agents, including Cyber Ninjas, are 1) violating their duty under federal law to retain and preserve ballots cast in a federal election, which are and have been in danger of being stolen, defaced, or irretrievably damaged, and 2) preparing to engage in conduct which will constitute unlawful voter intimidation in violation of the Voting Rights Act and other federal laws.

The Department of Justice has authority to monitor this process pursuant to Section 10302 of Title 52 of the United States Code.¹ Since the passage of the Voting Rights Act in 1965, the Department has “regularly monitored elections in the field”² and “around the country throughout every year to protect the rights of all voters.”³ Department monitoring is critical to the protection of civil rights and the enforcement of voting rights and election laws. Election monitors “have a unique ability to help deter wrongdoing, defuse tension, promote compliance with the law and

¹ See 52 U.S.C.A. § 10302. See also 52 U.S.C.A. § 10305.

² U.S. Department of Justice, “Justice Department to Monitor Polls in 28 States on Election Day,” press release, November 7, 2016, <https://www.justice.gov/opa/pr/justice-department-monitor-polls-28-states-election-day>.

³ U.S. Department of Justice, “Justice Department Again to Monitor Compliance with the Federal Voting Rights Laws on Election Day,” press release, November 2, 2020, <https://www.justice.gov/opa/pr/justice-department-again-monitor-compliance-federal-voting-rights-laws-election-day>.

bolster public confidence in the electoral process.”⁴ The need is especially urgent here, as there are ongoing and imminent violations of federal election laws in Arizona, and these violations may be used to justify further intrusions on Arizonans’ voting rights.

1) Violation of duty to retain and preserve ballots cast in a federal election.

We believe that the senate is violating its custodial duty to “retain and preserve” ballots cast in a federal election. Section 20701 of the Civil Rights Act imposes a mandatory duty on all officers of elections to “retain and preserve... all records and papers... relating to any application, registration, payment of poll tax, or other act requisite to voting.”⁵ The statute requires state and local authorities to properly safeguard all relevant election records for a 22-month period if the records were generated in connection with an election that was held in whole or in part to select federal candidates. When election officials transfer federal election records to another custodian, “the duty to retain and preserve” those records “devolve[s] upon” that custodian.⁶ The statute imposes a severe penalty on officers who do not comply with the retention policies laid out in Section 20701, in the form of a substantial fine or a prison sentence.⁷

As the Fifth Circuit has held, the requirements of Section 20701 are “sweeping.”⁸ The statute bestows upon election officials an “extensive” responsibility to retain all materials that fall within the “broad statutory classification of ‘all records and papers *relating to any* act requisite to voting.’”⁹ The law gives the Attorney General oversight authority with a “wide scope,” in order to facilitate “adequate investigation” of potential violations of the retention requirements, or other civil rights violations.¹⁰ The U.S. Election Assistance Commission has similarly found “the purpose of this law is to assist the federal government in discharging its law enforcement responsibilities in connection with civil rights and elections crimes,” and thus “its scope must be interpreted in keeping with that objective.”¹¹

The custodial duties of the Maricopa County election officials “devolve[d] upon” the senate when election officials, pursuant to court order, transferred the ballots and election materials to the senate’s custody in the Arizona Veterans Memorial Coliseum, in accordance with instructions provided by the senate and its agents.¹² Unfortunately, immediately after the ballots were transferred into the custody of the senate and its agents, they began exposing the ballots to damage, destruction and loss, in violation of federal law.

⁴ U.S. Department of Justice, “Fact Sheet on Justice Department’s Enforcement Efforts Following Shelby County Decision,” accessed April 8, 2020, <https://www.justice.gov/crt/file/876246/download>.

⁵ 52 U.S.C.A. § 20701.

⁶ *Id.*

⁷ *See* 52 U.S.C.A. § 20701.

⁸ *Kennedy v. Lynd*, 306 F.2d 222, 230 (5th Cir. 1962), *cert. denied*, 371 U.S. 952 (1963) (emphasis included).

⁹ *Kennedy v. Lynd*, 306 F.2d at 226 (emphasis included).

¹⁰ *Kennedy v. Lynd*, 306 F.2d at 228.

¹¹ U.S. Election Assistance Commission, *2015 Voluntary Voting Systems Guidelines*, 24, https://www.eac.gov/sites/default/files/eac_assets/1/28/VVSG.1.1.VOL.1.FINAL1.pdf.

¹² *See* 52 U.S.C. §20701.

a. Failure to ensure physical security of ballots

First, the senate failed to properly ensure the physical security of the ballots and other election materials. As reported in multiple media outlets, the auditors failed to implement basic physical security measures, such as locking doors, to prevent unauthorized access to the ballot storage facility and the ballots themselves.¹³ Morgan Loew, a local reporter from CBS, said that he “gain[ed] access to the #ArizonaAudit all week through open doors and wander[ed] around without being approached or questioned by anyone.” In at least one video he recorded last week while at the Coliseum, the unguarded ballots appear to be only feet away.¹⁴

Without adequate security, there is an unacceptable, and real, risk that ballots can be accessed, stolen, or tampered with—a clear violation of the senate’s duty to maintain these ballots while serving as a custodian. Although unable to access the building (or the ballots), three people who have promoted debunked claims of election fraud on social media reportedly recently attempted to break into the Maricopa County Tabulation and Election Center (the “Center”) and subsequently shared photos of what they claimed were shredded ballots from the Center’s dumpster.¹⁵ And while auditors have denied observer credentials to election administration experts, notable proponents of conspiracy theories about voter fraud and the 2020 election, including Cyber Ninjas CEO, Doug Logan, appear to have free access to the facility.

There have been multiple communications regarding the auditors’ responsibility to ensure the physical safety of federal ballots. Arizona Secretary of State Hobbs, the chief state election official, warned Arizona Senate President Fann to “[d]evelop and implement procedures to ensure the physical security of the ballots and physical, data, and cyber security of election equipment, so that they are not tampered with, stolen, or otherwise mishandled or compromised”¹⁶ Despite complaints, Arizona authorities have failed to respond to these serious concerns. Reporter Morgan Loew reported that “after being informed of [his] video evidence of

¹³ Morgan Loew, “Security lapses plague Arizona Senate’s election audit at State Fairgrounds,” *AZ Family*, April 23, 2021, https://www.azfamily.com/news/investigations/cbs_5_investigates/security-lapses-plague-arizona-senates-election-audit-at-state-fairgrounds/article_b499aee8-a3ed-11eb-8f94-bfc2918c6cc9.html?style=headline_with_preview; The AZ – ABC 15 – Data Guru (@Garrett_Archer), “I’m in the Coliseum. No one was manning the metal detectors, so we just walked in,” Twitter, April 22, 2021, 8:32 p.m., https://twitter.com/Garrett_Archer/status/1385391174114897923.

¹⁴ In a video posted to Twitter, Morgan Loew says “We’ve been on the floor four days this week... You’ve got doors open all around the perimeter... How do you expect people to take this audit seriously when you can’t even secure this building?”. See Morgan Loew (@morganloewcbs5), “After gaining access to the #ArizonaAudit all week through open doors and wandering around without being approached or questioned by anyone, this is what happened when we showed up for an actual news conference. Turned away because we weren’t on a pre-approved list. #azfamily,” Twitter, April 24, 2021, 3:02 p.m., <https://twitter.com/morganloewcbs5/status/1386032876907421696>.

¹⁵ Hunter Bassler, “Safe and Secure’: Maricopa County Officials Respond To False Voter Fraud Accusations After Dumpster-Diving Incident,” *12 News*, March 9, 2021, <https://www.12news.com/article/news/politics/elections/maricopa-county-recorder-responds-to-false-voter-fraud-accusations/75-2140c58d-9535-43fe-820f-512d124ed003>.

¹⁶ Katie Hobbs (Secretary of State, Arizona), letter emailed to Karen Fann (Senate President, Arizona) and Warren Peterson (Senator, Arizona), March 3, 2021, https://www.documentcloud.org/documents/20499460-fann-letter-3_3_2021. Also see security measures in place at Maricopa County’s Tabulation Center. Maricopa County Elections Department, “Tabulation Center,” accessed April 27, 2021, <https://recorder.maricopa.gov/beballotready/Election%20Security%20PDF%20For%20BeBallotReady%20-%20English.pdf>.

serious security lapses at the #ArizonaAudit, [state officials] refuse[d] to investigate, saying ‘it does not meet the standard of a credible allegation.’”¹⁷

b. Failure to ensure preservation of ballot integrity

Second, the auditors are failing ensure that the ballots are properly preserved during the audit. Cyber Ninjas originally equipped auditors who were reviewing the paper ballots with blue ink pens, rather than the red ink pens typically used by election administrators when reviewing or tabulating ballots.¹⁸ This is a problem because blue pens are readable by ballot counting machines, and enable auditors to intentionally, or unintentionally, place marks on the ballot that are indistinguishable from marks made by the voter.

In advance of the audit, Secretary Hobbs also warned the auditors against using blue ink pens because of ballot preservation concerns, urging the state senate to “[d]evelop and implement procedures to ensure markings on ballots are not altered or added while in your custody, including, for example, restricting writing instruments to only red pens in the room where ballots are handled, inspected, or counted.”¹⁹ This was ignored.²⁰

Third, the auditors are using materials and technologies that will cause ballot paper and marks to deteriorate and place the ballots in jeopardy of being irreparably damaged. Based on press reports,²¹ auditors are engaged in a practice of holding up ballots to an ultraviolet light during inspection without gloves. It is well established that ultraviolet light causes not only paper to deteriorate, but also leads to the deterioration of marks on paper ballots.²² As a result, these procedures also violate the Senate’s custodial duty to preserve the ballots.

¹⁷ Morgan Loew (@morganloewcbs5), “After being informed of our video evidence of serious security lapses at the #ArizonaAudit, @GeneralBrnovich refuses to investigate, saying it ‘does not meet the standard of a credible allegation.’ #azfamily,” Twitter, April 24, 2021, 3:13 p.m.,

<https://twitter.com/morganloewcbs5/status/1386035605834895361>.

¹⁸ See e.g., “Only red pens are allowed in the Ballot Tabulation center, as equipment cannot read red ink.” Maricopa County Elections Department, “Tabulation Security,” accessed April 27, 2021, 1,

<https://recorder.maricopa.gov/beballotready/Election%20Security%20PDF%20For%20BeBallotReady%20-%20English.pdf>;

“TIP: Only allow the use of red pens in the work area.” Jennifer Morrell, *Knowing It’s Right, Part Two: Risk-Limiting Audit Implementation Workbook*, Democracy Fund, May 2019, 26, https://electionline.org/wp-content/uploads/2019/05/2019_RLA_Part2_vFINAL.pdf; Mary Jo Pitzel, “Blue ink, black ink, red ink: Why ink color matters when handling Arizona ballots,” *AZ Central*, April 23, 2021,

<https://www.azcentral.com/story/news/politics/elections/2021/04/23/why-arizona-election-law-specific-ink-color-used-ballots/7356330002/>.

¹⁹ Katie Hobbs, letter emailed to Karen Fann and Warren Peterson.

²⁰ Auditors agreed to discontinue use of the blue pens after a reporter raised concerns. Mary Jo Pitzel, “Blue ink, black ink, red ink: Why ink color matters when handling Arizona ballots,” *AZ Central*, April 23, 2021, <https://www.azcentral.com/story/news/politics/elections/2021/04/23/why-arizona-election-law-specific-ink-color-used-ballots/7356330002/>.

²¹ The AZ – ABC 15 – Data Guru (@Garrett_Archer), “Hold up ballot to UV light...,” Twitter, April 26, 2021, 11:37 a.m., https://twitter.com/Garrett_Archer/status/1386706068231786500.

²² Donia Conn, *The Environment: 2.4 Protection from Light Damage*, Northeast Document Conservation Center, 2012, <https://www.nedcc.org/free-resources/preservation-leaflets/2.-the-environment/2.4-protection-from-light-damage>.

c. Lack of transparency of the purported audit

Finally, the lack of transparency of the audit is further undermining the ability of the observers to ensure that they will retain and preserve the ballots. Specifically, as has been widely reported, the auditors are sharply restricting access to the audit by nonpartisan observers, election administrators and voting machine experts, and the press.²³ They are now also seeking to further restrict access to written security and audit procedures.²⁴ Arizona has a strong history of ensuring transparency in the election process,²⁵ which is critical to the confidence that Arizonans and Americans have in the state's elections. Currently, seventy percent of the authorized observers are Republicans, and the remaining thirty percent are a mix of Democrats, Libertarians and unaffiliated voters.²⁶

These restrictions have caused many to request greater transparency and access to the audit. Several of the undersigned organizations along with experts in election administration and national security, urged the state senate "to stop restricting the public's access to the audit" and grant observer credentials to nonpartisan election administration experts.²⁷ This request has been ignored.

²³ See e.g., Jen Fifield, "All observer shifts full for now as Arizona election audit continues Monday" *AZ Central*, April 26, 2021, <https://www.azcentral.com/story/news/politics/elections/2021/04/26/arizona-senate-election-recount-maricopa-county-not-taking-volunteer-observers-for-now/7384160002/> ("An Arizona Republic reporter who earlier had applied to serve as an observer was turned away from the Coliseum on Monday and told she was still being vetted following an hourlong wait... On the first day of the hand count on Friday, many observers who had signed up and were confirmed were turned away at the gate because the contractors said they had lost their names due to problems with their sign-up sheet."); Paige Alexander (Chief Executive Officer, The Carter Center) et al., letter to Karen Fann (President, Arizona State Senate) et al., April 22, 2021, <https://verifiedvoting.org/wp-content/uploads/2021/04/Arizona-Senate-Audit-Letter.pdf> ("As experts in election administration, election law, national security, and voting rights, we share a desire for accurate and trustworthy democratic elections... We are very concerned by the recent decision to restrict public access to the Arizona Senate's audit of Maricopa County's November 2020 general election); Jennifer Morrell was denied a request to serve as a nonpartisan audit observer. See Ken Bennett (Senate Liaison, Arizona) and Julie Fischer (Deputy Liaison, Arizona), email message to Jennifer Morrell (Partner, The Elections Group), April 20, 2021 (stating that "only registered voters from Maricopa County are eligible to apply as observers.").

²⁴ Brahm Resnik, "New twists in Arizona GOP election audit as judge drops out, auditor wants public barred from court hearing," *12 News*, April 25, 2021, <https://www.12news.com/article/news/politics/new-twists-in-arizona-gop-election-audit-as-judge-drops-out-auditor-wants-public-barred-from-court-hearing/75-ba2c322b-3127-4816-822d-e9384304a077>.

²⁵ Arizona's election officials are required to permit observation of logic and accuracy testing of election equipment before and after the election, polling places, ballot processing, ballot tabulation, and post-election audits. Also important, "[a]ppointed political party observers *need not be qualified electors in the precinct or county of observation*." Elections Procedures Manual ch. 8, § III; ch. 4, § II(C) (emphasis added); and statutory provisions cited therein.

²⁶ According to Ken Bennett during audit press conference. See The AZ - abc15 - Data Guru (@Garrett_Archer), "As audit presser continued," April 22, 2021, 10:58 p.m., https://twitter.com/garrett_archer/status/1385427881921110020?s=21 (min 12:40).

²⁷ See Sara Chimene-Weiss (Counsel, Protect Democracy) et al., letter emailed to Cyber Ninjas et al., April 6, 2021, <https://www.democracydocket.com/wp-content/uploads/sites/45/2021/04/Protect-Democracy-Letter.pdf>; Brennan Center for Justice, "Brennan Center Sends Letter to Arizona State Senate on Election Audits," April 13, 2020, <https://www.brennancenter.org/our-work/research-reports/brennan-center-sends-letter-arizona-state-senate-election-audits-0>; Brennan Center for Justice, "Brennan Center Sends Letter to Arizona State Senate on Election Audit Transparency," April 22, 2020; <https://www.brennancenter.org/our-work/research-reports/brennan-center-sends->

Unless nonpartisan election administration experts are permitted access, additional audit procedures which place the ballots and other election materials in jeopardy of damage or loss may not be identified, documented, or corrected.

2) Violation of prohibitions against voter intimidation.

We are also concerned that, under the senate’s audit procedures, the auditors are preparing to cause imminent violations of laws prohibiting voter intimidation. Voter intimidation is prohibited under at least three federal statutes. The Civil Rights Act of 1957 makes it illegal to intentionally intimidate voters.²⁸ The Ku Klux Klan Act of 1871 (“Klan Act”) makes it illegal either to engage in a conspiracy to injure or intimidate voters.²⁹ And the Voting Rights Act of 1965 makes intimidating voters illegal, regardless of whether someone acts with an intent to intimidate.³⁰

We are concerned about prospective violations of these statutes because many of the tactics envisioned by the Statement of Work for the audit—such as interrogating voters and generating reports on supposedly “unlawful” voters—are just the sort of conduct that have created federal voting rights liabilities for entities and individuals in the past.³¹ As the Department of Justice has previously explained, one can violate federal voting rights law even when it is purportedly part of an effort to investigate election crimes and fraud.³²

Voter intimidation can take many forms and need not include threats of physical violence. Indeed, the anti-voter intimidation provisions of the Voting Rights Act were intended to address a “sometimes more subtle, certainly more damaging” obstacle to voting: “fear.”³³ As a result,

[letter-arizona-state-senate-election-audit](https://verifiedvoting.org/wp-content/uploads/2021/04/Arizona-Senate-Audit-Letter.pdf) (signers include Matt Masterson, the former Senior Cybersecurity Advisor at the U.S. Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency, Paige Alexander, CEO of the Carter Center, Amy Chan, Chairwoman of the Arizona Citizens Clean Elections Commission); Paige Alexander (Chief Executive Officer, The Carter Center) et al., letter to Karen Fann (President, Arizona State Senate) et al., April 22, 2021, <https://verifiedvoting.org/wp-content/uploads/2021/04/Arizona-Senate-Audit-Letter.pdf>.

²⁸ See 52 U.S.C. § 10101(b).

²⁹ See 42 U.S.C. § 1985(3) clauses 3 & 4.

³⁰ See 52 U.S.C. § 10307(b).

³¹ For example, the State of Texas recently was forced to settle multiple federal lawsuits after an erroneous audit wrongly flagged citizens as potentially unlawful voters. See Alexa Ura, “Texas will end its botched voter citizenship review and rescind its list of flagged voters,” *Texas Tribune*, April 26, 2019, <https://www.texastribune.org/2019/04/26/texas-voting-rights-groups-win-settlement-secretary-of-state/>. Similarly, the Pence-Kobach Commission’s prior attempt to pursue baseless allegations of unlawful voting disbanded after facing a barrage of lawsuits and without discovering any widespread voter fraud. See, e.g., John Wagner, “Trump abolishes controversial commission studying alleged voter fraud,” *Washington Post*, January 4, 2018, https://www.washingtonpost.com/politics/trump-abolishes-controversial-commission-studying-voter-fraud/2018/01/03/665b1878-f0e2-11e7-b3bf-ab90a706e175_story.html; Andrew Gumbel, “Documents disprove White House voter fraud claims, says ex-member of Trump Commission,” *Guardian*, August 3, 2018, available at <https://www.theguardian.com/us-news/2018/aug/03/documents-disprove-white-house-voter-claims-says-ex-member-of-trump-commission>.

³² See U.S. Attorney’s Office, Northern District of Alabama, “District Elections Officers Available Nov. 8 to Receive Complaints of Election Fraud or Voting Rights Abuses,” October 21, 2016, <https://www.justice.gov/usao-ndal/pr/district-electionofficers-available-nov-8-receive-complaints-election-fraud-or-voting> (observing that even “actions to uncover illegal voting . . . may violate federal voting rights law”).

³³ *Voting Rights: Hearing on S. 1564 Before S. Comm. on the Judiciary*, 89th Cong. 7 (1965) (Statement of Nicholas deB. Katzenbach, Att’y Gen. of the United States) (emphasis added); *id.* at 12 (explaining that the Voting Rights Act was specifically drafted to address “intimidation” that “involve[s] subtle forms of pressure”). The Ninth Circuit has

falsely accusing individuals of being unlawful voters can violate both the Voting Rights Act and the Klan Act.³⁴ As does making calls to voters suggesting that they may suffer negative consequences from electoral participation.³⁵

The audit procedures described in the Cyber Ninjas' Audit Scope of Work authorize deploying agents to "physically canvass" Maricopa County voters and "collect information" related to voter history.³⁶ At a press conference on Thursday, April 22, Ken Bennett, the senate liaison for the audit, and Doug Logan, Cyber Ninjas' CEO, reiterated their intent to physically canvass voters' homes.³⁷ Regardless of the fact that these actions will occur after the 2020 Election, they constitute intimidation because they seek to stoke fear amongst Arizonans of exercising their fundamental right to vote in future elections.

The Brennan Center, Protect Democracy, and others raised some of the above concerns in letters to Senate President Fann dated April 13 and 22, and a letter to Cyber Ninjas dated April 6.³⁸ We also expressed concern about the selection of an auditor that appears to lack independence, objectivity and substantive expertise, which are basic standards described in the generally accepted governmental auditing standards. Without an independent auditor, the audit "will have little value other than to stoke conspiracy theories and partisan gamesmanship – or worse."³⁹

All of the concerns about the senate's ongoing lawlessness identified above are heightened by the context in which the audit is taking place. Multiple members of the senate who voted in favor of this so-called audit continue to repeat false claims that the election was stolen and marred by

also explained that a California statute prohibiting "coercion or intimidation" with respect to voting "is not limited to Displays or applications of force" but also covers intimidation "achieved through manipulation and suggestion." *United States v. Nguyen*, 673 F.3d 1259, 1265 (9th Cir. 2012).

³⁴ See *LULAC-Richmond Region Council 4614 v. Pub. Interest Legal Found.*, No. 18-423, 2018 WL 3848404, at *4-6 (E.D. Va. 2018) (holding that no showing of specific intent or racial animus is required under § 11(b) [i.e. 52 U.S.C. § 10307(b)]).

³⁵ *National Coalition for Black Civil Participation v. Wohl*, 2020 WL 6305325 (S.D.N.Y., Oct. 28, 2020).

³⁶ "During the 'Registration and Votes Cast Phase', Contractor may utilize precincts that have a high number of anomalies based on publicly available voting data and data from prior canvassing efforts to select a minimum of three precincts to conduct an audit of voting history related to all members of the voter rolls. A combination of phone calls and physical canvassing may be utilized to collect information of whether the individual voted in the election. No voters will be asked to identify any candidate(s) for whom s/he voted. This data will then be compared with data provided from Maricopa County Board of Elections." Cyber Ninjas, "Statement of Work," March 31, 2021, 5, <https://context-cdn.washingtonpost.com/notes/prod/default/documents/f29b1d22-d384-4b2e-9df6-cfae6f956f6d/note/d8799b7b-1c9d-49d5-bcc1-1c6b297f94e2.#page=1>.

³⁷ See The AZ - abc15 - Data Guru (@Garrett_Archer), "As audit presser continued," April 22, 2021, 10:58 p.m., https://twitter.com/garrett_archer/status/1385427881921110020?s=21 (at min 0:28, Ken Bennet says "...And so, we'll identify which ones we think we need to canvass, and that process will occur, but we're not going to publish it ahead of time...").

³⁸ See Brennan Center for Justice, "Brennan Center Sends Letter to Arizona State Senate on Election Audits," April 13, 2020, <https://www.brennancenter.org/our-work/research-reports/brennan-center-sends-letter-arizona-state-senate-election-audits-0>; Brennan Center for Justice, "Brennan Center Sends Letter to Arizona State Senate on Election Audit Transparency," April 22, 2020, <https://www.brennancenter.org/our-work/research-reports/brennan-center-sends-letter-arizona-state-senate-election-audit>; Sara Chimene-Weiss (Counsel, Protect Democracy) et al., letter emailed to Cyber Ninjas et al., April 6, 2021, <https://www.democracymonitor.com/wp-content/uploads/sites/45/2021/04/Protect-Democracy-Letter.pdf>.

³⁹ Brennan Center for Justice, "Brennan Center Sends Letter to Arizona State Senate on Election Audits".

widespread voter fraud,⁴⁰ despite the absence of any evidence of support those allegations. Indeed, Maricopa County’s election officials have already conducted two audits of the election results and found no discrepancies or irregularities.⁴¹ What is more, state legislators are engaged in an ongoing push to enact laws that would restrict access to the franchise, and at least one legislator has connected this audit to that legislative agenda.⁴²

For the reasons explained above, we request that you send federal monitors as soon as practicable to the Arizona Veterans Memorial Coliseum located at 1826 W McDowell Road, Phoenix, Arizona. Ballots that are protected under federal law are in imminent danger of being stolen, defaced, or irretrievably damaged, and Arizona citizens are in imminent danger of being subject to unlawful voter intimidation as a result of flawed audit procedures.

Sincerely,

Wendy R. Weiser
Vice President, Democracy
Elizabeth L. Howard
Senior Counsel, Democracy
Hannah Klain
Equal Justice Works Selbin Family Fellow
Brennan Center for Justice at NYU School
of Law

Wade Henderson
Interim President and CEO
The Leadership Conference on Civil and
Human Rights
The Leadership Conference Education Fund

Genevieve Nadeau
Counsel
Protect Democracy

⁴⁰ See e.g., Howard Fischer, “Fann says Supervisors fear outcome of election audit,” *Arizona Capital Times*, April 4, 2021, <https://azcapitoltimes.com/news/2021/04/04/fann-says-supervisors-fear-outcome-of-election-audit/>; Josh Kelety, “State Senator Kelly Townsend Wants to Invalidate Mailed-In Ballots,” *Phoenix New Times*, January 28, <https://www.phoenixnewtimes.com/news/arizona-lawmaker-kelly-townsend-wants-to-invalidate-mailed-in-ballots-11528419> (“But the east Valley lawmaker has routinely given voice to the conspiracy theories that the 2020 election was stolen from former Republican President Donald Trump. In early December, she asked Republican Arizona Attorney General Mark Brnovich to investigate allegations of voter fraud...”); Sonny Borrelli (@SonnyBorrelli), “STOP THE STEAL!! MAGA!!!...,” December 28, 2020, 4:41 p.m., <https://twitter.com/SonnyBorrelli/status/1343673536502661120>; Sonny Borrelli (@SonnyBorrelli), “It’s because they are hiding the evidence of a fraudulent Election. Obstructing an investigation and suppressing transparency..” December 25, 2020, 1:10 a.m., <https://twitter.com/SonnyBorrelli/status/1342351906568486912>. Last week, Borrelli retweeted a tweet about election fraud. See Pancho Silentman aka Honest Injun (@PanchoSilentman), “Here’s the deal. If Dominion said this about Biden is going to lose b/c we fixed it democrats and Trump haters would be screaming for an Forensic Audit. Election Fraud is Real. @WethePeopleAZA1 @VoteRIGHTinAZ @SonnyBorrelli @FannKfann @BorisEP @AZGOP @kelliwardaz @BarnettforAZ,” April 23, 2021, 7:52 a.m., <https://twitter.com/PanchoSilentman/status/1385562184600592386>.

⁴¹ Jen Fifield, “Maricopa County’s 2020 election votes were counted correctly, more county audits show,” *AZ Central*, February 23, 2021, <https://www.azcentral.com/story/news/politics/elections/2021/02/23/maricopa-countys-election-audits-show-2020-votes-counted-correctly/4550644001/>.

⁴² Brennan Center for Justice, “Voting Laws Roundup: March 2021,” April 1, 2021, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-march-2021>; Ben Giles, “GOP Arizona State Senator Rejects Controversial Voting Bill Pending Election Audit,” *NPR*, April 22, 2021, <https://www.npr.org/2021/04/22/990026065/gop-arizona-state-senator-rejects-controversial-voting-bill-pending-election-aud> (“Townsend said she informed GOP leadership that she will no longer vote for any election legislation until after Senate Republicans complete an audit and hand recount of the 2020 general election in Maricopa County, Arizona’s largest county.”).