

**From:** [Johnson, John](#)  
**To:** [Taylor, Richie](#)  
**Subject:** FW: Additional Considerations for Draft Interim Report  
**Date:** Monday, January 30, 2023 2:14:59 PM  
**Attachments:** [Kanefield Fann Document.docx](#)  
**Importance:** High

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**From:** Johnson, John  
**Sent:** Friday, April 01, 2022 12:13 PM  
**To:** Kanefield, Joe  
**Subject:** FW: Additional Considerations for Draft Interim Report  
**Importance:** High

**John Johnson**  
**Division Chief Counsel**



Office of the Attorney General Mark Brnovich  
Criminal Division  
2005 N. Central Ave.  
Phoenix, AZ 85004  
Phone: 602-542-8482  
[John.Johnson@azag.gov](mailto:John.Johnson@azag.gov)

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**From:** Grigsby, Reginald  
**Sent:** Friday, April 01, 2022 12:12 PM  
**To:** Johnson, John  
**Cc:** Gadow, Blaine; Thomas, Keith; Miller, Daniel; Cope, James  
**Subject:** Additional Considerations for Draft Interim Report  
**Importance:** High

Everyone,

Document attached.

Respectfully,

Reginald "Reggie" Grigsby  
Chief Special Agent  
Special Investigations Section

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Office of the Attorney General  
Special Investigations Section  
2005 N Central Avenue, Phoenix, AZ 85004  
602-542-7944  
[Reginald.Grigsby@azag.gov](mailto:Reginald.Grigsby@azag.gov)  
<http://www.azag.gov>

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The Honorable Karen Fann  
Arizona State Senate  
1700 W. Washington St.  
Phoenix, Arizona 85007

Interim Report re: Maricopa County November 10, 2020 General Election

Dear President Fann:

On September 24, 2021, we received your comprehensive report concerning the Maricopa County Forensic Election Audit. Your report began by noting “the most important and encouraging finding of the audit” showed the auditor’s final hand count of the 2.1 million ballots in Maricopa County matched the official machine count. The audit, however, raised several concerns regarding Maricopa County’s election system that required a more careful review by our Election Integrity Unit (EIU). In addition, the EIU has received additional complaints alleging election fraud that occurred in 2020 and the EIU has been reviewing those complaints as well.

Since receiving your report, our team of EIU investigators have spent several thousand hours reviewing the report and other complaints, conducting interviews, and analyzing Maricopa County’s election system and processes. Although our review is not complete and we continue to receive and analyze information from Maricopa County concerning the election system, we provide you this interim report that sets forth our initial findings, observations and recommendations.

As the U.S. Supreme Court recently observed in *Brnovich v. DNC*, \_\_\_ U.S. \_\_\_ (2021), the state has a compelling interest in preserving the integrity of its election process and preventing voter fraud. “Fraud can affect the outcome of a close election, and fraudulent votes dilute the right of citizens to cast ballots that carry appropriate weight. Fraud can also undermine public confidence in the fairness of elections and the perceived legitimacy of the announced outcome.” *Id.* at \_\_\_. It is therefore imperative that our election system be administered in a manner that guards against fraud, abuse, mistake and oversight. That responsibility falls on the Arizona Legislature to enact laws that “secure the purity of elections and guard against abuses of the elective franchise.” Ariz. Const. art. 7, § 12. **Our overall assessment is that the current election system in Maricopa County involving the verification and handling of early ballots is broke** (*Investigators examined the policy and procedures followed by the MCRO relative to signature verification. SIS staff concluded the MCRO followed its policy/procedures as they relate to signature verification; we did not uncover any criminality or fraud having been committed in this area during the 2020 general election*), but the Arizona Legislature can take immediate measures as required by Article 7, Section 12 of the Arizona Constitution to address these shortcomings that we have identified in the system before the 2022 primary and general elections.

Our review has uncovered instances of election fraud by individuals who have been or will be prosecuted for various election crimes. [FN - CITE EIU Website]. Our initial findings here, however, relate specifically to (1) early ballot signature verification, (2) early ballot drop boxes, (3) use of private grant monies by election officials, and (4) document preservation. Importantly, please note that while our review is ongoing and we have identified mistakes and problematic practices by Maricopa County, we have yet to identify any instance of criminal misconduct by an election official.

## Early Voting Signature Verification

Although mail in voting is an important convenience for voters, the opportunity for fraud increases the moment a ballot leaves the protective custody of the election official and enters the postal system. The bipartisan Commission on Federal Election Reform chaired by former President Jimmy Carter and former Secretary of State James Baker identified this concern and noted that mail ballots are vulnerable to abuse in several ways, which is difficult to detect and therefore steps must be taken to reduce the risks of fraud and abuse. Report of the Comm'n of Fed. Election Reform, Building Confidence in U.S. Elections 46-47 (Sept. 2005). Although steps have been taken to reduce this fraud, including the enactment of Arizona's ballot harvesting ban, it is imperative that steps be taken to provide for a stronger and more uniform early ballot signature verification system.

An early ballot is not complete, and cannot be counted, unless and until it includes a signature on the ballot affidavit. Once received, election workers at the county recorder's office compare the signature on the affidavit with the signature in the voter's registration record. A.R.S. § 16-550(A). If election officials determine that the signature matches that on file, the ballot is counted. If, on the other hand, election officials determine that the signature on the ballot affidavit does not match that on file, then the ballot cannot be counted unless the voter verifies the signature. Requiring a match between the signature on the ballot affidavit and the signature on file with the State is the primary, if not only, and certainly most important election integrity measure when it comes to absentee ballots.

The Ninth Circuit acknowledged, in response to a constitutional challenge to the deadline for submitting signed ballot affidavits, that "Arizona requires early voters to return their ballots along with a signed ballot affidavit in order to guard against voter fraud." *Ariz. Democratic Party v. Hobbs*, 976 F.3d 1081, 1085 (9th Cir. 2020). Election officials, therefore, must be extremely diligent in ensuring that early-ballot signatures match those on file with the State. Regardless of the sheer quantity of early ballots received, the administrative burdens imposed by verifying each one, or for other reasons that could be construed as nefarious or partisan, election officials and their staffs cannot violate their statutory duty to match every signature.

Voting by mail is widespread in Arizona: 79% of Arizona voters cast mail-in ballots in 2018 and that number reportedly increased to 89% for the 2020 General Election. With over 3.4 million ballots cast in the General Election, Arizona elections officials were required to match signatures on over 3 million ballots during a five to six-week period in 2020. Unfortunately, this large number of early mail-in ballots combined with the administrative burden of confirming every one of the signatures submitted in a very short period of time, when not administered diligently, could result in election officials approving ballots that should not otherwise be approved without further verification (SIS investigators learned the MCRO had provided training by a handwriting expert to signature verifiers, they utilized a process to elevate questionable signatures, as well as a process to cure ballots – a process for further verification. Investigators learned that the MCRO hired additional staff to work on signature verification due to the sheer volume of ballots to be processed).

Statistics for Maricopa County, for example, over the last three election cycles reflect that the number of ballots rejected because of missing and mismatched signatures is trending down. During the 2016 General Election, when Helen Purcell was county recorder, Maricopa County received 1,249,932 mail-in ballots. Of that amount, Maricopa County rejected 2,209 ballots because of missing signatures and 1,451 ballots because of mismatched signatures.

Just two years later, during the 2018 General Election, after Adrian Fontes became county recorder, Maricopa County received 1,184,791 mail-in ballots, just 65,141 less than in 2016. Yet the number of ballots rejected in 2018 because of missing signatures (only 1,856) and mismatched signatures (only 307) declined significantly—the number of missing signature ballots decreased by 353 and the mismatched signature ballots decreased by 1,144 (a 79% decrease!). By comparison, Pima County received 302,770 ballots (882,081 less than Maricopa) and rejected 488 (135 more than Maricopa) because of mismatched signatures.

During the 2020 General Election, Maricopa County saw a significant increase in the number of mail-in ballots, receiving 1,908,067 mail-in ballots (an increase of 723,276 mail-in ballots). Yet the number of ballots rejected because of missing signatures continued its dramatic decrease (to only 1,455 ballots) and the number of ballots rejected because of mismatched signatures increased only slightly (to 587 ballots).<sup>[1]</sup> To be sure, Maricopa County has explained that the number of ballots rejected for mismatched signatures during the 2020 General Election was impacted by the Legislature’s creation of a 5-day post-election cure period for mismatched signatures. But the existence of that cure period in 2020 does not explain the dramatic decrease—on an absolute or percentage basis—of ballots with missing signatures from 2016 to 2020<sup>[2]</sup> or the dramatic decrease in ballots with mismatched signatures from 2016 to 2018. **One possible explanation for these trends, and the AG acknowledges there could be others, is that Maricopa County became less diligent with signature review beginning in 2018 (SIS investigators did not compare the 2020 general election ballot rejection rate to any election in 2018).**

Certain data stemming from litigation following the 2020 General Election is also instructive. In November 2020, certain individuals filed an election challenge under A.R.S. § 16-672. In connection with that challenge, the trial court ordered that the parties’ counsel and retained forensic experts could review 100 randomly selected ballot affidavits and conduct a signature comparison of ballots where a signature match had occurred. *Ward v. Jackson*, CV2020-015285, 2020 WL 13032880, \*3 (Maricopa Cnty. Super. Ct. Dec. 4, 2020). Two forensic document examiners testified during an evidentiary hearing, one for the plaintiffs and one for the defendants. The plaintiffs’ expert testified that of the 100 ballots reviewed, 6 signatures were “‘inconclusive,’ meaning she could not testify that the signature on the envelope/affidavit matched the signature on file.” *Id.* at \*4. The forensic expert for Defendants, who sought to defeat the election challenge, “testified that 11 of the 100 envelopes were inconclusive, mostly because there were insufficient specimens to which to compare them.”<sup>[3]</sup> *Id.* Neither of the forensic experts found any sign of forgery. *Id.*

Although the trial court rejected the election challenge and this Court affirmed<sup>[4]</sup>, that does not render the forensic experts’ findings irrelevant for purposes of analyzing whether current election procedures can be improved. And the fact that two forensic experts could differ so widely on whether

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<sup>[1]</sup> Pima County by contrast rejected nearly the same number of ballots based on mismatched signatures (572) despite receiving 1,479,386 less ballots.

<sup>[2]</sup> Ballots with missing signatures were required to be cured prior to close of polls on election day.

<sup>[3]</sup> There was no indication in the trial court’s ruling rejecting the election challenge whether there was overlap between the 6 affidavits that Plaintiffs’ expert found inconclusive and the 11 affidavits that Defendants’ expert found inconclusive.

<sup>[4]</sup> *Ward v. Jackson*, 2020 WL 8617817, \*3 (Ariz. Dec. 8, 2020).

particular signatures matches were inconclusive (one thought 6 signatures were inconclusive, the other 11) and that defendants' own expert concluded, less than one month after the General Election, that 11% of signatures sampled were inconclusive, suggests, as Petitioners argue, that improvement is needed.

The failure of the system is largely driven by the success of mail in voting. With over 80 percent of the Maricopa County electors choosing to vote by mail, there is insufficient time for the county recorder to process and verify the large volume of early ballot affidavit signatures. **Moreover, there is no uniform procedure in place to assure that the ballot signatures are being processed correctly and uniformly not only in Maricopa County but throughout the State** *(SIS has not conducted a comparative analysis of signature verification processes for other counties)*. The Arizona Secretary of State has offered non-enforceable "guidance" to the county recorders regarding signature verification but has never promulgated procedures as required by A.R.S. § 16-452. Importantly, the Secretary's "guidance," is insufficient and could create more issues than it purports to resolve. See Brief of Amicus Curiae Attorney General Mark Brnovich, Section II(C), *Arizona Republican Party v. Hobbs*, No. CV-22-0048-SA (Ariz.).

Our review determined that early ballot signature verification is often performed in an expedited manner by individuals with limited training in signature analysis *(SIS investigators have concluded that the training provided to signature verifiers is adequate for the tasks they are asked to perform)*. Because of the volume of early ballots that arrive close to or on election day and the limited time allowed by law to verify signatures, the process can be rushed, which weakens the integrity of the verification process. Although we will have more to say about this process in our final report, we are concerned that the expedited manner in which thousands of early ballot signatures are processed inevitably leads to a diminished review. At times the election worker conducting the verification process has only seconds to review a signature. For example, on November 4, 2020, the Maricopa County Recorder verified 206,648 early ballot signatures, **which resulted in an average of 4.6 seconds per signature** *(The MCRO had an additional 40 temporary workers available to assist with signature verification, and per MCRO staff, they were utilized during the 2020 general election. Considering these numbers, signature verification times could range from 4.6 seconds to 10 seconds per signature)*. **Given**. Although our investigation has uncovered no official misconduct in this process, the amount of ballots processed and counted in this limited time raises serious concerns.

We therefore conclude that the early ballot signature verification system in Maricopa is insufficient to guard against potential fraud and therefore recommend that the law be amended to provide additional security for mail ballots, including a requirement that voters who choose to vote by early ballot provide some form of government identification. We note that a referendum sponsored by Senator Mesnard will ask voters at the November 8, 2022 general election to put in place such requirements. See SCR 1012, available at <https://apps.azleg.gov/BillStatus/BillOverview/76391>.

### **Early Ballot Drop Boxes**

The EIU received a complaint from the Verity Vote organization alleging that the Maricopa County Elections Department violated the procedures that govern how early ballots are transferred from drop-off and drop-box ballot locations to the Maricopa County Tabulation and Election Center (MCTEC). These are early ballots that voters drop off at designated locations, including polling locations

on election day. The report specifically alleged that the County failed to maintain chain of custody and properly document the retrieval, transportation and count of the ballots.

These procedures that designed to preclude ballot tampering are critical given the volume of ballots that were dropped at these locations during the 2020 general election. Maricopa County reported that 901,976 ballots were collected from drop box locations. Most of those ballots (729,858) were collected during the early voting period from October 7, 2020 to November 2, 2020. The remaining 172,118 ballots were returned from drop boxes at polling locations. The procedures for transporting these ballots to the election office during the 2020 general election were governed by the 2019 Elections Procedures Manual (EPM), which was adopted pursuant to A.R.S. § 16-452. Section 1.7 of the 2019 EPM requires at least two individuals with different political party affiliations to retrieve the ballots. The individuals retrieving the ballots must document the location, date and time of arrival, time of departure, number of ballots and follow a strict protocol when securing the container of ballots. Our review has determined that in multiple instances, Maricopa County failed to follow the EPM procedures when transporting these ballots.

Because the Secretary of State did not present the Attorney General a lawful EPM for approval as required by A.R.S. § 16-452, there is currently no EPM in place governing the 2020 elections. It is therefore recommended that the Arizona Legislature codify the ballot custody and transportation procedures for early ballots. Moreover, Maricopa County should take immediate steps to address these shortcomings to assure they do not repeat themselves during the upcoming elections. Finally, because of the security issues associated with voted early ballots sitting in bins and containers in remote locations, the Legislature should enact laws that either prohibit drop box locations altogether or limit them to early ballot sites and polling day locations staffed and closely monitored by election officials. House Bill 2238, sponsored by Representative Hoffman, would accomplish this recommendation by prohibiting the use of an unmonitored drop box for receipt of voted ballots. See <https://apps.azleg.gov/BillStatus/BillOverview/76693?SessionId=125>.

### **Use of Private Grant Monies**

In order to secure the purity of our elections, our laws prevent election officials and others from influencing the manner in which electors choose to exercise their right to vote. This includes the elector's choice whether to vote by mail or at the polls. Section 16-1014(A)(1), makes it a class 2 misdemeanor for any person, including the Secretary of State, to knowingly expend money "to induce a voter to remain away from the polls at an election." During the 2020 elections almost \$8 million dollars of private, nongovernmental grant monies were used by the Arizona Secretary of State Katie Hobbs, Maricopa County, and Pima County for various election purposes as outlined in a report prepared by the Arizona Auditor General dated March 30, 2022. Available at <https://www.azauditor.gov/reports-publications/counties-state-agencies/secretary-state-office/report/arizona-secretary-state>. We are carefully reviewing this report to determine if any election laws were violated through the use of these funds. Although our review is ongoing, our initial determination is that Secretary of State Hobbs may have violated A.R.S. § 16-1014(A)(1) by spending \$56,836 of private, nongovernmental grant monies to educate voters how to sign up for the permanent early voting list and how to request an early ballot through mailers and forms sent to voters.

According to the Auditor General, the Secretary's advertising campaign included digital (e.g., website), newspaper, outdoor (e.g., billboards), radio, and television advertising to provide 2020

primary and general elections and post-election information throughout the State. The report contains an example of a digital advertisement for the August 2020 primary election from the Secretary's advertising campaign that encourages electors to vote by mail with the slogan "Voting Is Your Civic Duty. Standing In Line Isn't." This advertisement implies that electors who choose to vote in person at the polls will be inconvenienced by long lines and should therefore vote by the less secure early ballot. See Early Voting Signature Verification section above.

Although the Secretary promoted the advertising campaign as one to "combat misinformation and disinformation," the campaign itself spread misinformation by informing voters that they will have to stand in a line if they choose to vote at the polls and encouraging electors to vote by mail instead. Although lines do occur on occasion they are largely the exception and the county election officials are specifically instructed (by the Secretary of State) to take every measure possible to reduce or eliminate lines at the polls. See A.R.S. § 16-411(J). Consequently, the Secretary of State may have violated A.R.S. § 16-1014(A)(1) by encouraging electors to avoid the polls and vote by mail.

As noted by the Auditor General, in the time since Secretary Hobbs, Maricopa County, and Pima County received and used these private, nongovernmental grant monies, Laws 2021, Ch. 199, §1, was enacted, which prohibits the State and a city, town, county, school district, or other public body that conducts or administers elections from receiving or expending private monies for preparing for, administering, or conducting an election, including registering voters. Specifically, effective September 29, 2021, the State and its counties (and other political subdivisions) are statutorily prohibited from receiving the aforementioned grant monies or similar monies. As a result of this new law, the election officials may not use private grants or donations to perform their election duties or engage in any type of publicity campaign during the 2022 elections unless specifically authorized by the Arizona Legislature or their governing boards and councils.

### **Document Preservation & Production**

Our review required that we carefully access to the Maricopa County election system and processes. Maricopa County was largely cooperative but not always timely responsive to our requests for records. At times Maricopa County chose a combative and litigious approach to providing requested information rather being open and transparent *(It is the collective opinion of FSP and SIS investigators – based upon our experiences - that MCRO, who was represented by counsel, was cooperative and responsive to our requests in light of the fact they did not have the staffing numbers they did during the 2020 general election and the office was running elections for various other governing bodies)*. The manner in which the County chose to respond to the Senate subpoena is illustrative. [SUMMARY OF WHAT HAPPENED].

Our office filed an amicus brief in support of the State Senate's ability to subpoena information from Maricopa County involving the 2020 elections.

In addition, Maricopa County has been slow in responding to our requests for information. The laws should be changed to require the immediate production of such information when requested by the Arizona Legislature or the Arizona Attorney General. [DISCUSS SEN. TOWNSEND BILL THIS SESSION THAT WOULD HAVE GIVEN US CIVIL SUBPOENA AUTHORITY].

### **Conclusion**



Sincerely,

Mark Brnovich

Attorney General