

Snell & Wilmer

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May 26, 2022

VIA U.S. MAIL & EMAIL

Lisa Marra
Cochise County Elections Director
1415 Melody Lane
Building E
Bisbee, Arizona 85603
lmarra@cochise.az.gov

Re: *Public Records Request and Request for County Facility Visit/Tour*

Dear Ms. Marra (Lisa):

This firm represents the Republican National Committee (RNC) with respect to oversight of election administration and ballot security in the 2022 elections. In particular, I will be serving as the RNC's counsel in Arizona for the purpose of monitoring the forthcoming elections, working in partnership with county election officials, and assisting with the training/assignment of Republican Party observers across all early voting locations and ballot processing/signature verification facilities.

To that end, the RNC seeks to gain a better understanding of your office's policies and procedures for the forthcoming primary and general elections. The RNC has two requests in that regard.

First, pursuant to A.R.S. § 39-121 *et seq.*, the RNC makes the public records requests attached here as Exhibit A. The requests are made for a non-commercial purpose and, to the extent your office would normally charge fees for the production of records, the RNC requests a waiver of those fees in this instance. Electronic production is preferred. Alternatively, to facilitate processing these document requests, the RNC is willing to inspect the records at your office at your earliest convenience. Please just let me know.

Second, I would like to conduct a visit/tour of your office (along with the RNC's state director, Tony Sanchez) to get a true sense about the observation opportunities/protocols for party observers. My charge is to train/educate prospective party observers, in the weeks leading up to

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the August primary election, about the specific location(s), tasks, and rules applicable to party observation at your facilities. Such a prospective visit/tour is critical to ensure proper training and appropriate assignments—which would be mutually beneficial to the observers *and* your staff for the upcoming elections. Thus, I would be grateful if your staff would be willing to host us in the next few weeks.

As an aside, I recognize that one or more county political party representatives may have already requested and/or received the same access to explore observer opportunities. While I plan to be in contact with the Cochise County Republican Party in advance of my visit to your office, and would certainly welcome their joint participation, my visitation request is distinct from any other past or pending requests by local party representatives. Thus, it is important that I have the opportunity to personally visit your facilities.

I look forward to hearing from you about these requests, and more broadly, to working together to ensure a successful and secure 2022 election in Cochise County.

Sincerely,

Snell & Wilmer L.L.P.

A handwritten signature in blue ink, appearing to read 'E. Spencer', with a large, stylized flourish at the end.

Eric H. Spencer

Enclosure

EHS:jb

cc: elections@cochise.az.gov

Exhibit A

Elections Director Public Records Requests

Political Party Observers

- **Please produce documents describing the ability of party observers to observe following activities at voting locations**, whether on or before Election Day (as applicable):
 - any pre-Election Day setup meeting at the voting location;
 - shipments or deliveries of precinct equipment to the voting location;
 - setup of the voting location on Election Day;
 - voting at voting locations;
 - Shutdown/close-out of the voting location on Election Day; and
 - Transport of voted ballots back to the county, the county's third-party vendor, or an intermediate receiving site.
- **Please produce documents describing the ability of party observers to observe following activities at the central count facility**:
 - performance of logic and accuracy testing (beyond the party representatives already invited to such testing);
 - receipt of voted ballots;
 - ballot processing, tabulation, and storage of ballots at the central count facility;
 - observation of all election boards' activities (e.g. write-in board, snag board, etc.);
 - uploading results to the EMS;
 - uploading results to the election reporting system; and
 - performing the hand count audit.
- **Please produce documents that describe credentialing requirements for political party observers** at voting locations and central count facilities, including (but not limited to) documents describing:
 - the form of required credential to be a political party observer (e.g. paper, electronic, etc.);
 - whether the observer must physically or electronically possess the party-issued credential (versus the county facility having advanced notice of the observer's name);
 - whether the political party must provide specific party observer names to the county prior to the date of observation;
 - if specific party observer names must be provided to the county prior to the date of observation, documents describing:
 - the date by which names must be provided for the 2022 primary and general elections;
 - any information needed beyond just the party observer's name;
 - the identity of the county employee who must receive the list of party observers;
 - what level(s) of political party officials are authorized to provide the party observer names (county party, state party, national party, etc.);
 - whether the county imposes any eligibility requirement for party observers,

including:

- precinct residency requirements;
- county residency requirements;
- registered voter requirements;
- registered voter in county requirements;
- whether more than one observer for a particular political party will be permitted to observe at a particular location or facility and under what circumstances; and
- whether party observers (including attorneys) will be permitted to rove among different locations, and if so, whether the applicable political party must provide advanced notice to the county of all the potential locations the observer might be designated to visit;
- whether attorneys will be permitted to observe at a voting location or in the central count facility in addition to the default number of permitted party observers.
- **Please produce documents describing any COVID-19-related requirements for party observers** at voting locations or central count facilities, including (but not limited to) documents describing:
 - masking requirements;
 - social distancing requirements, including distance from poll workers, election workers, or voters;
 - proof of vaccination requirements.

Pre-Election Procedures

- **Please produce documents describing whether the county will conduct Election Day voting in the primary and general election using precinct-based polling places, vote centers, or a combination.**
- **Please produce documents that describe the address/locations of all Election Day voting locations for the 2022 primary and general elections.** To the extent the voting locations have not yet been finalized, please describe the projected date(s) in which voting locations will be submitted to/approved by the Board of Supervisors.
- **Please produce documents that describe procedures used to appoint and train poll workers**, including (but not limited to) documents describing:
 - the laws applicable to the conduct of elections that will be taught;
 - equipment troubleshooting procedures;
 - roles/responsibilities of each member of the election board;
 - escalation procedures to elevate problems/issues to a next higher manager or authority; and
 - training materials for regular poll workers, premium poll workers, and troubleshooters (please differentiate).
- **Please produce documents describing the equipment, materials, and supplies that will be distributed to voting locations** in the 2022 primary and general elections.
- **Please produce documents describing county staffing procedures at voting locations**, including documents describing:
 - if additional personnel and/or resources will be deployed to voting locations where projected turnout is expected to exceed normal levels;
 - whether third-party vendors have been hired and/or will be on call to respond to

problems such as long lines, equipment malfunction, etc.

- **Please produce documents describing any contingency plans in place**, including (but not limited to) documents describing:
 - contingency plans if wait times consistently or significantly exceed 30 minutes;
 - for precinct-assigned elections, contingency plans for re-routing or accommodating precinct voters if a particular polling place is shut down or becomes inoperable;
 - security resources, including whether security personnel will be uniformed officers, plainclothes officers, and/or private security.

Conduct of Elections/Election Day Operations

- **Please produce documents that describe the election board's procedures for opening the voting location on Election Day**, including (but not limited to) documents describing:
 - establishing the non-electioneering limit;
 - powering up equipment;
 - zeroing (or confirming the zero tape) on voting equipment.
- **Please produce documents that describe how the election board will maintain order at voting locations**, including (but not limited to) enforcing the electioneering ban, enforcing the photography ban, enforcing access restrictions, and preventing voter intimidation.
- **Please produce documents that describe procedures for checking for proper voter identification on Election Day to ensure that the voter is a qualified elector**, including (but not limited to) documents describing the procedure:
 - if a voter provides identification, but the name or address does not reasonably match the signature roster or electronic poll book;
 - if a voter provides no proof of identity;
 - if a voter identifies himself or herself as a member of a recognized Native American tribe and presents an alternative means of identification.
- **Please produce documents that describe procedures for assisting voters who request voting assistance on Election Day.**
- **Please produce documents describing the oversight/control of ballot boxes or bins while the polls are open**, including (but not limited to) documents describing:
 - security procedures;
 - procedures for emergencies or ballot box overflow.
- **Please produce documents that describe procedures for issuing regular (non-provisional) ballots on Election Day.**
- **Please produce documents that describe procedures and conditions for issuing provisional ballots on Election Day.**
- **Please produce documents that describe procedures for addressing challenges to a voter's eligibility**, including the internal escalation procedures whereby eligibility determinations may need to be reviewed by a higher level of management.
- **Please produce documents that describe procedures for closing the polls on Election Day**, including all relevant close-out or audit duties at the voting location.
- **Please produce documents that describe procedures for storing, securing, and transporting ballots after the polls are closed on Election Day**, including paperwork to document the chain of custody and the necessary political party balance for personnel

involved in the transport.

- **Please produce documents that describe when equipment and supplies will be picked up from the voting location** after Election Day (if not immediately after the polls close on election night).

Central Count Facility Procedures

- **Please produce documents describing whether/how the county uses electronic adjudication.**
- **Please produce documents describing the procedures for how voted ballots and other voting materials are received at/transported to the central count facility**, including any chain of custody documentation.
- Please produce documents describing the procedures for processing and tabulating regular, early, and provisional ballots received from voting locations.
- **Please produce documents that describe under what conditions a ballot may be rejected or otherwise not subject to tabulation** at the central count facility.
- **Please produce documents that describe under what conditions a ballot must be reproduced or duplicated** by a duplication board.
- **Please produce documents that describe how the county would determine voter intent** in cases where ballots are improperly marked, corrected, erased, or otherwise read as blank or unclear by the tabulation equipment, outside the context of the hand count audit.
- **Please produce documents describing the procedures for remedying damaged or defective ballots.**

Voting Equipment

- **Please produce documents describing the principal components of the county's voting system**, including (but not limited to) documents describing:
 - the central count equipment;
 - any vote center or precinct-based tabulation equipment;
 - accessible voting devices and/or ballot marking devices;
 - electronic poll books, "site books," or similar electronic systems that facilitate voter check-in;
 - the election management system (name, software version); and
 - any other principal components.
- **Please produce documents that describe whether the county's voting system has undergone any upgrades, modifications, or change orders since the 2020 General Election**, including (but not limited to) documents describing:
 - the nature of the upgrade, modification, or change order;
 - the reason for the update, modification, or change order;
 - whether the equipment or component required recertification by the EAC or Arizona Secretary of State prior to usage/implementation.
- **Please produce documents that describe whether the vote center or precinct-based tabulation equipment tabulates a paper ballot**, including (but not limited to) documents describing whether the vote center/precinct-based equipment tabulates:
 - a full/regular-sized paper ballot;

- a “skinny ballot” or card (with or without a bar code/QR code) produced by separate touch-screen voting equipment; or
- electronically tabulates votes cast on touch-screen voting equipment without any accompanying paper ballot (exclusive of any VVPAT).¹

Hand Count Audit

- **Please produce documents that describe the procedures for conducting hand count audits**, including which races may be counted, how these races are selected, and any specific methods of hand counting votes.
- **Please produce documents that describe who may observe hand count audits, which activities they may observe, and what guidelines they must follow.**

Other Post-Election Procedures

- **Please produce documents that describe procedures for conducting automatic recounts** if triggered.
- **Please produce documents that describe how ballots are stored after the county and state canvasses are complete.**

Poll Workers

- **Please produce documents describing any limitations to serving as a poll worker or otherwise temporary worker based on political views**, including (but not limited to):
 - asking prospective workers about their political views;
 - reviewing a prospective worker’s social media;
 - requiring a prospective worker to prospectively disavow certain political views;
 - refusing to hire a prospective worker based on his/her political views; or
 - making worker assignments based (in whole or in part) on political views.

¹ Alternatively, if the county uses only central count equipment and does not tabulate any ballots at a vote center or polling place, please so indicate.