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June 29, 2021

Senator Karen Fann, President
Arizona State Senate
Capitol Complex
1700 West Washington
Phoenix, AZ 85007-2890

cc: Ken Bennett, Randy Pullen

Subject: "Deep Rig" False Claims

Dear Senator Fann:

It has come to our attention that the video "Deep Rig" has been released in concert with the end of the hand counting process in Maricopa County. We are concerned about the coordination of this release with the end of that work, and the fact that your primary contractor, "Cyber Ninjas," led by Doug Logan appeared prominently in the video in an attempt to tie it in with Q-anon followers. Worse, you were recognized at the start of the event to a standing ovation, and Arizona State Sen. Sonny Borrelli, chair of the Senate Government Committee, was in attendance. Senate Liaison Ken Bennett appeared in it. It was funded by the same group that is funding millions of dollars of expenses in the hand count.

We have deep concerns about these events and this video, as it is filled with false, debunked claims, and yet finishes with the statement that we can't let this sort of thing happen "again" -- meaning it already happened once, and that it occurred in Maricopa County.

Unfortunately, this was the sort of thing we feared might happen, hinted as a possible outcome by the strict non-disclosure guidelines on our proposed contract to do a ballot image audit. This video is so far from reality that it will have a devastating impact on the trustworthiness of your audit.

This will be regarded as the report of the hand count, regardless of anything else produced. If you allow this to stand without comment, you will be forever tainted and linked to this effort. The conclusion it reaches, that there has been widespread election fraud and rigging, is not supported, and the evidence it cites are provably false.

For example, Jesse Binnall, Attorney says at the end of the video:

> "We just had an election, November 2020, that was riddled with fraud, and it resulted in a stolen election. We can't stick our heads in the sand collectively as a country and say that didn't happen. It happened, and we have to deal with it. We need to make sure it never, ever happens again."

They did not prove this statement in the video, nor did your hand count prove it. Yet, this is the concept that is being promoted by this video and these events. They say "Now you know the truth" to the crowd.

The hand count was instituted to find the facts of what occurred in Maricopa County. In my review of your proceedings and your own statements, you've made it appear that you were seeking the truth. Yet, hiring an extremely biased and inexperienced company to do the count and using an imprecise process is evidence to the contrary. We pointed out some of the weaknesses of the hand count, including that it will likely not have the precision required to check an election with only 0.31% statewide margin. This video is the final proof if you do not take action to distance yourself from it.

Attached to this cover letter is our report on just some of the issues in this video that are of concern. We can't overstate how damaging this video is to your effort.

OUR RECOMMENDATIONS
Sen. Fann, to maintain some measure of integrity regarding the hand count just completed but not reported yet, it is extremely important that you:

1. Immediately disavow this video and enumerate the things you know are incorrect in the video, such as those listed in the attached report, particularly regarding Antrim County, MI, the misinformation about the rate at which election night results are updated, the concept that the CIA altered the outcome or that there is evidence that counterfeit, phantom or ballots from communist foreign actors have affected the outcome in Maricopa County.

2. State that the report from the hand count has not been released, and this video is not the report from the Senate.

3. State that the envelopes in Maricopa County have not been destroyed, or else provide concrete evidence that those envelopes were destroyed. Further, if so, then begin proceedings against Maricopa County for violation of federal law regarding maintenance of records for 22 months.

4. You and Ken Bennett should apologize for your role in the video and in the promotion of it.

5. Require that the video be prefaced with a statement from your office stating that you do not endorse the video and you disavow anything that may be implied by it for Maricopa County.

6. You should require that Doug Logan also disavow his claims in the video. For participation in the video, Doug Logan should no longer be involved in the hand count. The remainder of the hand count activities should be taken over by the subcontractor StratTech with assistance from a university professor in Arizona. We can provide instructions on how the data should be processed and reported.

7. All equipment and data should be immediately returned from the "lab" in Montana.

We understand that the report from the hand count will include 15 subtotals, i.e. each of the five candidates, and then by each of the three talliers. This is contrary to the stated process where the tallies would be resolved on a 100-ballot or 50-ballot tally sheet level. And there are also far too few subtotals. You should have subtotals for each box, and perhaps for each batch. We recommend around 50,000 subtotals, one for each of the approx 10,000 batches and for the five ballot options tallied, be compared with the official cast-vote-record.
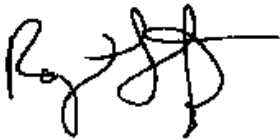
As an election integrity expert who has been watching elections for more than 15 years, and the developer of AuditEngine, I agreed with others at Citizens Oversight to offer a factual, nonpartisan ballot image audit for Maricopa County. We took it at face value that you were seeking the truth in an election with a very close margin of victory, but where a Biden win was predicted by pollsters, such as Polly, the AI election prediction tool[1]. "Election integrity" does not mean setting things up so that your side wins -- it means transparent, trackable, publicly verified election results. It means finding the truth, not promoting propaganda.

Unless the Senate disavows this video and works to thwart its disinformation, people will conclude that your true agenda was indeed the promulgation of this false narrative and nothing more. The integrity of the hand count will be forever tainted, making it truly a waste of time, effort and money. Unless, that is, if the true agenda was to promote this video. Then I imagine one could argue it was a success.

We have offered to perform a ballot image audit of the results of the election. We believe this is even more important now that this video has been released to mitigate the severe negative impact of this video. This can be done by providing an official release of the ballot images for purposes of the ballot image audit to Citizens Oversight, so we may obtain them directly from the election officials in Maricopa County. Obtaining anything from Cyber Ninjas or the lab in Montana will not be accepted by the public.

The release of this video at this time and in this way is truly an unfortunate event and we must do all we can to repair the damage immediately.

Sincerely,

Raymond Lutz
Executive Director, Citizens' Oversight Projects

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[1] https://advancedsymbolics.com/us-election-2/

"The Deep Rig" False Claims

Ray Lutz, Citizens Oversight   2021-06-29

The following report is a list of issues noted in our review of the DEEP RIG video[2], produced by Patrick Byrne, founder of Overstock.com and a major funding source for the additional costs of the hand count of the 2020 General Election in Maricopa County, AZ. This list was compiled after our initial review of the video and panel session, and is not exhaustive.

1. **ELECTION NIGHT REPORTING IS NOT A RELIABLE INDICATOR**

    The video primarily points to the rate at which votes were posted on election night as evidence that a "deep rig" occurred. I and other election integrity experts with Citizens' Oversight have watched election results come in for a number of years, particularly in places like California where vote-by-mail (VBM) ballots are largely processed after election night, and the results are posted over the next several weeks. We have learned that the rate at which votes are posted to the unofficial results website is not directly coupled to the rate at which they are processed. Sometimes, a worker will update them every hour or every day. Thus, a big "dump" of votes only means that the totals were updated at that time.

    Also, these are unofficial results that are subject to corrections. The "Deep Rig" video implies that the curves can be read to show when suspicious behavior occurred. That is not evidence of rigging, but largely a misunderstanding of how those votes are posted.

    This is particularly true in places with a large set of VBM ballots that are not processed by election night, and the voter demographics of VBM vs. Early and Election Day voting is dramatically different. Both were true in Arizona. It was well known that Trump voters were advised to vote early or on election day, and not to use VBM. There was fear about in-person voting due to the raging pandemic. Those who were masking and avoiding public places were more often on the left, and those voters were thus more likely to use the VBM option.

    This was not only true in AZ, but also in the other cities the video claims were the locations of hacks: Las Vegas (Clark County) NV, Phoenix (Maricopa) AZ, Milwaukee WI, Detroit MI, Atlanta GA, and Philadelphia PA. This was known in advance of the election by election watchers such as our group, by many politicians, election officials, and journalists. Indeed also by Sen. Bernie Sanders, who predicted as we did that Election Day votes would favor Trump and vote-by-mail votes would favor Biden, with the advance knowledge by everyone that many vote-by-mail ballots would be received and processed after Election Day. The film, however, used Sen. Sanders' prediction as evidence of fraud, when in fact he was simply stating a well-known fact. He also predicted that Trump would cry "fraud" at 10pm that night. Sen. Sanders didn't mean that Trump's claims would be valid, he was simply stating that Trump would make those claims. The Deep Rig video, however, presented Sen. Sanders words in a way to make it appear that Sen. Sanders was acknowledging fraud in the 2020 election, and the fact that Sanders could make this prediction was proof that hacking occurred.

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[2] https://thedeeprig.movie/

Bottom line is that the rate at which ballots are processed is not proof that rigging occurred.

2. **ANTRIM COUNTY MICHIGAN "HACK" HAS BEEN DEBUNKED**

The small county of Antrim Michigan (16,044 ballots cast) had a configuration error where some machines incorrectly initially reported votes for Biden that were in fact cast for Trump. Antrim County Clerk Sheryl Guy previously acknowledged errors by her office caused the mistake, which was corrected before the vote tally was certified[3].

The original report performed by ASOG claimed that the Dominion Voting System in use in Antrim County (and in Maricopa County), was intentionally designed to cause a large number of adjudications, then allowing the staff to select Biden over Trump.

Alex J. Halderman, a University of Michigan professor of computer science and engineering was commissioned by the Michigan Secretary of State to investigate these claims, resulting in a detailed, 54 page report.[4] A Secretary of State press release stated:

> "The report affirmed there was no credible evidence the Dominion system was deliberately designed to induce errors, and found the Allied Security Operations Group report contained an extraordinary number of false, inaccurate or unsubstantiated statements. The report identified areas for improvement including voting system design, training and security, but concluded the errors in Antrim County were not the result of a security breach."

The problem in Antrim County happened when a local candidate was accidentally left off the ballot in one precinct. When the candidate was added to that precinct, the election staff did not realize that they also had to update the other 15 precincts in the county. The failure to update the other precincts meant that the races were pushed to the next row, creating false results. **However, the mistake was caught the day after the Election, long before certification, and the mistake was described in the local newspaper, the Record Eagle, on November 15. This has not stopped conspiracy theorists from making up reasons why this happened and has not stopped them from using Antrim County as fodder for false claims about a stolen election.**

Furthermore, the Republican-led Michigan Senate Oversight Committee released a report[5] on June 23 that concluded that "This Committee found no evidence of widespread or systematic fraud in Michigan's prosecution of the 2020 election." The report said that:

> "A prime example of a misrepresentation of facts that then mislead citizens is found on a chart on page two of Allied Security Operations Group's (ASOG) Antrim County Forensic Report. The chart, [shown in the report] and the accompanying information, led citizens to conclude the election results were suspiciously changing for over a month after the election. It also could lead one to believe election officials and the Dominion tabulators were dishonest in their work by not representing the source of the specific numbers shown, even though the information is readily available to the authors of the report. Further, the

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https://www.record-eagle.com/news/judge-will-hear-arguments-on-whether-to-dismiss-antrim-election-lawsuit/article_23d48f1c-a6e1-11eb-83f2-57a4fc399272.html

4 https://www.michigan.gov/documents/sos/Antrim_720623_7.pdf

5 https://misenategopcdn.s3.us-east-1.amazonaws.com/99/doccuments/20210623/SMPO_2020ElectionReport.pdf

authors also chose to present only some of the information, leaving out specific data that would evidence something besides a massive conspiracy or computer hack created the problem.

The Committee states that the data this chart summarizes, coming from the actual election artifacts in Antrim County, clearly and concisely shows that ideas and speculation that the Antrim County election workers or outside entities manipulated the vote by hand or electronically are indefensible. Further, the Committee is appalled at what can only be deduced as a willful ignorance or avoidance of this proof perpetuated by some leading such speculation."

Therefore, this entire section of the video is based on information **known to be incorrect** and therefore is purposefully misleading. We must provide praise to the Republican-led effort in MI to fully understand the results there and we hope your effort in AZ will use the same evidentiary and factual basis rather than speculation and willful ignorance or avoidance of the facts.

3. **DOUG LOGAN AND PATRICK BYRNE ATTEMPT TO TIE ELECTION FRAUD TO HATE GROUPS**

The Deep Rig video featured Doug Logan, CEO of Cyber Ninjas, the prime contractor in the hand count in Maricopa. Throughout the video, he was shown with voice altered and with his image concealed. Patrick Byrne, the producer of the video tried to connect the fraud they were investigating to human and child trafficking or molestation, with the CIA and it appears this was an effort to make it appear Doug Logan may actually be the anonymous "Q" that is behind the Q-anon movement. Following is an excerpt from The Deep Rig video:

"There is some speculation that the CIA, or former members of the CIA, may in fact have been involved in some of the disinformation campaigns going on in our own country. So going through that, we started to identify threat groups. We don't like to say the word hate groups, but these were the threat groups where people are causing riots. It doesn't have to be a specific party, or organization. They're the people who were live streaming the murders of police officers. They were live streaming all these riots and destroy destruction [sic] of downtown. You start to see there is a much more organized concerted effort behind it. It's not organic, it's not grassroots. It's not Woodstock. It's not Martin Luther King. It's highly funded, paid agitators. Right? That they use to try and create the illusion that it's some organic uprising.

"We were looking at all the web data, the dark web, deep web. We were analyzing message boards and chat groups and trying to identify these individuals. And so we started analyzing not just the threat groups, but also the election."

This insinuation that the people they were first analyzing [regarding riots and destruction] were part of a covert CIA operation to effect acceptance of the election results, is unwarranted speculation, but a common way to link two things in viewer's minds without explicitly saying so. They have no proof that the unrest resulting from the murder of George Floyd was not organic and grass roots. He just says so.

Logan said in the film, "If we don't fix our election integrity now, we may no longer have a

democracy."

Of course, that implies that they have determined that "our election integrity" must be fixed, and therefore it is broken, and in fact very broken, because we don't have a democracy if it is not fixed.

It is a very bad practice to have the contractor of the Senate that is conducting the hand count to appear in a video production, which is released at about the same time as hand counting has completed in Maricopa County, and then imply that rampant fraud exists, such that our democracy will not exist unless it is eliminated, and by implication imply that hate groups and rioters have done something to alter the election.

This is astonishing and appalling that the AZ State Senate is endorsing this.

4. **300K TO 800K FRAUDULENT VOTES IS UNTRUE**

In the panel discussion, Bobby Piton, who appeared in the Deep Rig video as a "mathematician" said by remote video that "Maricopa will have 300K to 800K fraudulent votes discovered." We have seen no evidence of this because no report of the hand count has been published.

Now Piton is coming up with 300K to 800K fraudulent votes from nowhere, unless a report has already been published to this effect. Again, this is false information that the Arizona State Senate must disavow.

5. **PHANTOM VOTERS ARE A MYTH**

Piton also lists in the video different ways that people could commit voter fraud:

> "People are like, 'Bobby prove it, prove it' I hear this all the time. I started to see different patterns emerge with different types of phantom voters being created. And why aren't they being caught? Because then ... there's dead voters voting here, but it was never enough to turn the election. You had an abnormal number of people living with their parents at various ages that made no sense. So that's a class of phantom voter. So then another voter is someone who moved within the state. Your information resides in one county and now it resides in a second. And if you move to a third county, it might be in all three. So they would bounce around within the state and their information would be there.

> "The fourth type of phantom voter, I call the gremlin effect. You know, all of a sudden, there's a Bobby Piton in this county, and then there's a Rob Piton in this county over there, and then a Bob Piton in this county over there. And so my vote is getting diluted. So when someone is looking up my name, they'll say, well there's a Bobby Piton over there and Robert Piton, it must be the same person. But it's not. You know, they've split me, and basically, they've stolen my vote when they do that.

> "And then the fifth type is the one we all think of: They just made the person up."

Piton lists these as if they are "proof" in response to the request that people prove it. His list proves nothing.

He had previously claimed that "2,012 PEOPLE WERE REGISTERED TO VOTE AT ONE ADDRESS IN AZ," in a Facebook post that was shared over 1,900 times.[6] Murphy Hebert, a spokesperson for the Arizona Secretary of State's office, called the claim that thousands of voters registered at the same address "misleading, especially since no address is listed."

"Apartments in the same complex, residents in the same long-term care facilities, and students in the same college dorms can all have the same street address," Hebert said.

And the more important point is that even though voter rolls are imperfect and may contain names of deceased voters or voters who have moved, that is completely meaningless unless those people vote in the election, and no proof is presented in the film that it did happen.

Look, I am interested to learn about any proof of such voter fraud, but it just is not widespread. And in the cases that were actually found in this election, the cases were Trump voters who had voted twice, when Trump asked them to do so[7]. We notice that the clip of Trump suggesting that voters commit vote twice, thus committing voter fraud was not covered in the video[8]. In the previously cited Michigan report[9]:

> The report examined, point by point, other theories of election fraud promoted by Trump and his supporters, including votes by dead people. The report said such claims were researched and the committee "concluded that most were false."

> "There were two claims of deceased individuals casting votes that were found to be true; one was a clerical error while the other was a timing issue," the report said. "The Committee concluded that none of these constituted fraudulent election activities or manipulations."

Thus, there is no proof of widespread fraud by voters.

6. **JOVAN PULITZER CLAIMS BALLOTS WERE FABRICATED, INCLUDING FROM FOREIGN BAD ACTORS**

The Deep Rig video also features Jovan Pulitzer in a "My Cousin Vinny" reminiscent scene where he holds up a stack of white paper like a deck of cards.

> "Can you hack paper? Yes, let me show you how. Let's say this white paper is a proper ballot, proper color, proper paper. Black, in my scenario, is going to be a counterfeit ballot, something that should not exist in the system, and they're illegal. Now what about ballots that get scanned multiple times, sequential. Here's what I mean: think about it. If a ballot is

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[6]

https://www.usatoday.com/story/news/factcheck/2021/01/12/fact-check-false-claim-fraud-arizona-voter-registrations/4114323001/

[7]

https://www.freep.com/story/news/politics/elections/2020/09/03/michigan-trump-voting-twice-illegal-absentee-ballot/5703359002/

[8] https://www.reuters.com/video/watch/idOVCU547OF

[9]

https://www.nbcnews.com/politics/elections/michigan-republicans-eviscerate-trump-voter-fraud-claims-scathing-report-n1272116

printed in a sequence, and they're mailed, what's the chance they will come back in the same sequence? However, that occurs in the system. [Actually, no it doesn't] So that's what this blue one is going to stand for. A yellow one here is going to stand for a ballot that someone has just mimeographed. What you don't know is these machines cannot tell the difference between a good ballot and a bad ballot. Let's take this green one here. Did you know the machine can read just an empty ballot? It takes it in, it scans it, it just needs a voter. You're going to find voters later. And then this red one here, let's call it foreign bad actors -- communists here, we'll use the red one.

"The system wants you to think the ballots are like this [he holds up a stack of white cards] all perfect. But if you take these ballots and scan them back in and look at them with forensics, that's what's called computer vision, kinda like self-driving cars, machine learning, that's where the computers learn with artificial intelligence, to really look at them. Here's what the system truly sees: [He holds up a stack of cards with many colors, a much larger stack] It can look at all the physical ballots and see all the different layers. So you don't need the machine to see code. You can see code in the physical world. Here's the bottom line. If there are bad ballots in the mix, why should they be counted?"
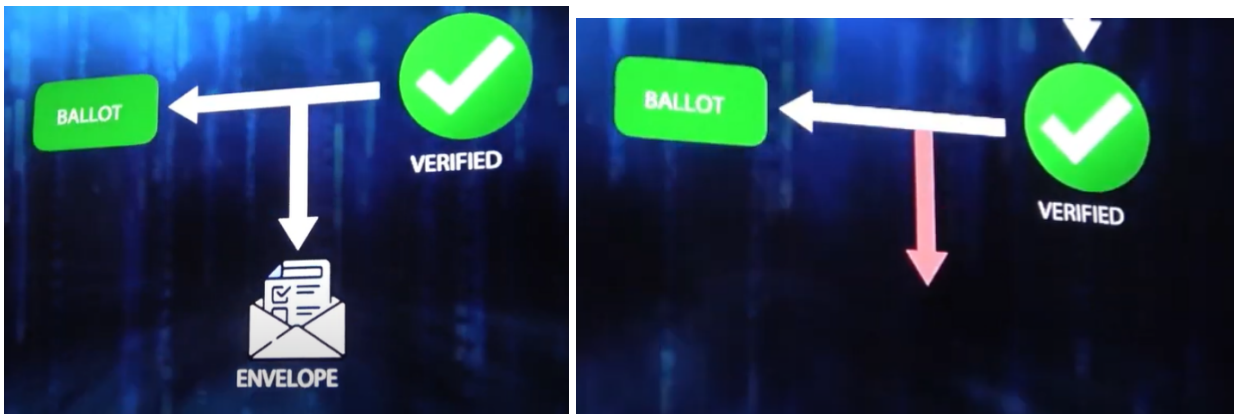
There is no evidence that ballots were counterfeited, scanned multiple times, scanned without voters, or inserted by foreign bad actors. Adding ballots to the election is not easily possible because you need either an envelope of that voter, or sign-in information linking the voter to the ballot. Furthermore, even if these exist, there is no guarantee that you can detect these by inspecting the paper. If you could fake voters coming in, then you just use blank ballots that are from the same source. Undetectable.

There is a widely held misconception that by controlling the original paper ballots, you can control ballot stuffing. But with vote-by-mail, which is widely used in Arizona, the control is not the ballot but the envelope. People may receive multiple ballots, but they can vote only once, because any additional ballots for the same voter will be removed.

Bottom line is that there is now no evidence that such things occurred in Arizona, and the inspection process promoted by Pulitzer has not been shown to be effective.
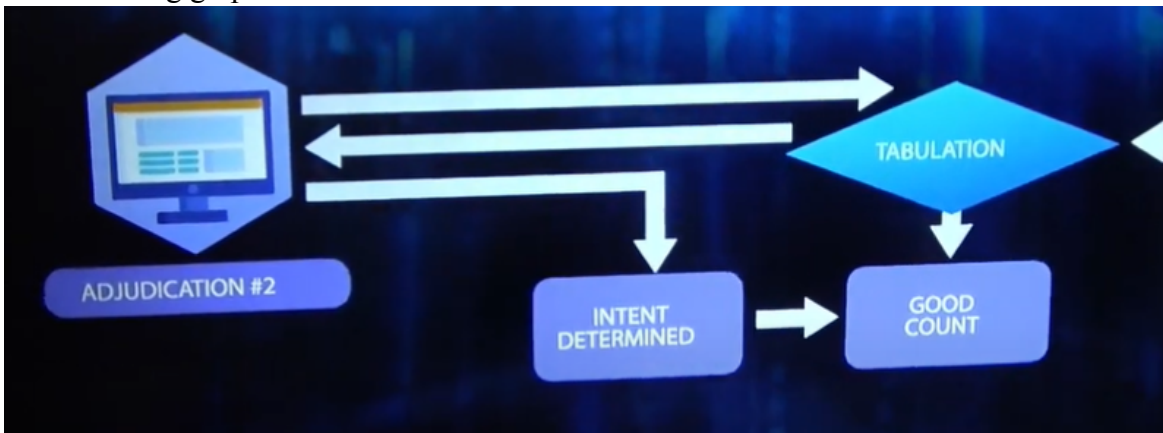
7. **VIDEO SAYS VOTE-BY-MAIL ENVELOPES WERE DESTROYED**
The video shows that ballots are verified, then envelopes are separated from the ballots. It is normal procedure to separate the ballots from envelopes to preserve secrecy of the vote. But it is required by federal and state law that the envelopes are kept for 22 months, just like the ballots. The video says the envelopes were destroyed. If this is the case then lawsuits should be filed to stop their destruction. We are not aware of any evidence that envelopes in Maricopa County were destroyed. The envelopes do have a higher level of sensitivity because they carry voter information and signatures, so they are not as easily available as the ballots or the ballot images may be. But this does not mean they have been destroyed.

8. **FALSELY CLAIMS THAT ADJUDICATION OVERWRITES THE ORIGINAL BALLOT, PHANTOM BALLOTS ARE CREATED, THEN PAIRED UP WITH VOTERS WHO DID NOT VOTE**

The following graphic was shown in the video:

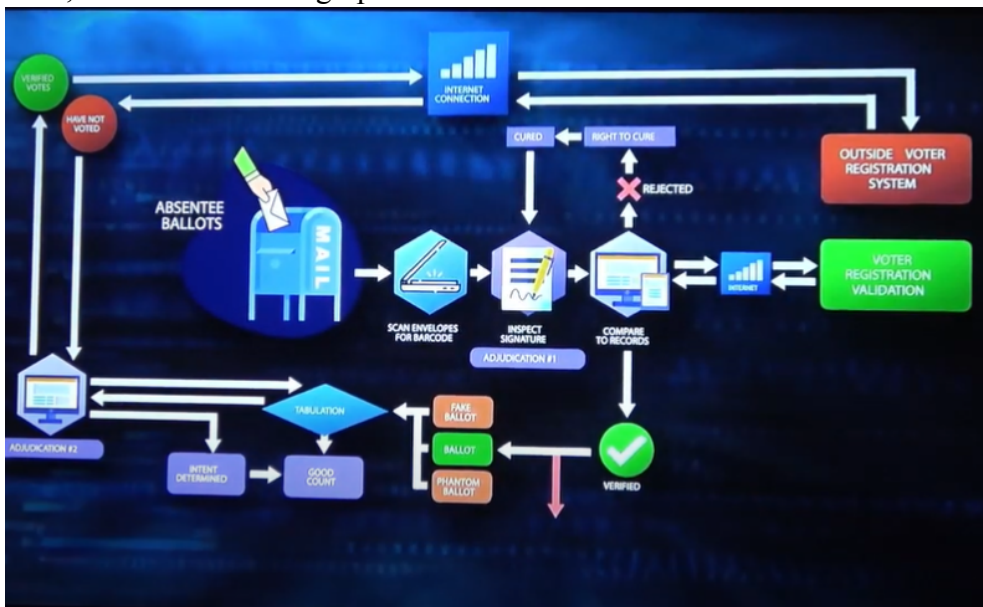After showing this graphic, Joe Oltman says:

> "Ballots can be scanned in with nothing filled out. This is where it gets really tricky. Once you do that and go to adjudication, and you develop or create intent, it erases the ballot, the image that was taken, and replaces it with the one of intent. Replaces it completely. You won't actually have a history of that ballot being replaced in the adjudication process. So we have ballot harvesting, it is happening, and it gets through those different cons that you have there, you're still going to be tied to a real voter. When you put in phantom ballots or you put in blank ballots in the system that aren't tied to that verification process, when it enters that environment, then you have to find a way to align it with a voter. You have to have the system come down and come back up so it validates against those blank ballots or phantom ballots. So the same way you had to verify those signatures were actual voters, you have to do the same thing, you have to find a way to sync up those fake ballots with an actual voter."

The above statements are false. In actuality, the adjudication process does NOT replace the original image nor does it overwrite the cast-vote-record. Instead, it creates a separate "snapshot" or version of the record of the vote without altering the original, and it does not alter the original

ballot image. This we know because in our auditing system, AuditEngine, we deal with the original images and they are not altered in the process, and an additional "Modified" version of the cast vote record is included. But the "Original" cast vote record is not altered.

This misconception may be a natural guess because the adjudication software shows the image on the screen with checks over the original image, but that is just a layer on top of the ballot image. It does not alter the image. Also, once the ballot is adjudicated, the cast-vote-record will likely match the image, as that is the intent of the adjudication process.

Furthermore, Oltman says that the system would have to come down and back up to link it with an outside voter registration system so that the blank or phantom ballots could be paired up with a voter, shown in the next graphic.

This scheme won't work if the envelopes are not destroyed, and if there are sign-in sheets or an electronic pollbook that records when voters check in.

What is even more concerning is that this scenario looks like a scheme that could be employed by the Cyber Ninjas to insert ballots into the system. This is one more reason we must perform a ballot image audit using the original images to thwart this possibility.

It is difficult to design a system where completely untrusted election officials, who are entrusted with the processing of the election, cannot alter the election in any way. But we believe that long-term, the best way to design such a system is around secured ballot images, which are digitally secured as soon as the ballot is scanned.

9. **MICHEAL FLYNN ADMITS THAT TRUMP DID NOT HAVE PATH TO VICTORY**

Interestingly, Michael Flynn, who was featured in the film, says that "The president wasn't offered any clear paths to victory, and if they were, he did not follow up on these. If they had, then the outcome would have been very different."

He just said that Trump actually lost the election because he was not "offered a clear path to

victory." But where does this idea come from that Trump was supposed to be "offered a clear path"? Our elections don't work that way, you have to earn your victory, not be offered it.

SUMMARY

The video "The DEEP RIG" does not provide any new evidence that election fraud and rigging occurred in the 2020 General Election. This election was the most secure, simply because in many counties around the country, touch-screen voting machines with no paper trail were replaced by machines with an auditable paper trail. The election can be routinely audited, and we support those procedures.

We agree that we can continue to improve these procedures, and that we should both inspect the original paper ballots and perform precise ballot images audits.

However, this video is counterproductive because it asserts that election fraud has occurred when no proof of that exists, and this video provides no evidence, only speculation and innuendo.

ABOUT RAY LUTZ

With a Masters of Science degree in electronics engineering, he specialized in the office equipment industry, founding the Multifunction Products Association (MFPA) and drafting national and international standards, including a role as technical liaison to the United Nations sponsored International Telecommunications Union (ITU). Most recently (2008-present) Ray has been involved in election integrity issues, including a recent successful election audit fraud lawsuit against San Diego County. Now, he is working with CitizensOversight.org to provide a ballot-image audit solution called AuditEngine.[10]

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[10] https://auditengine.org