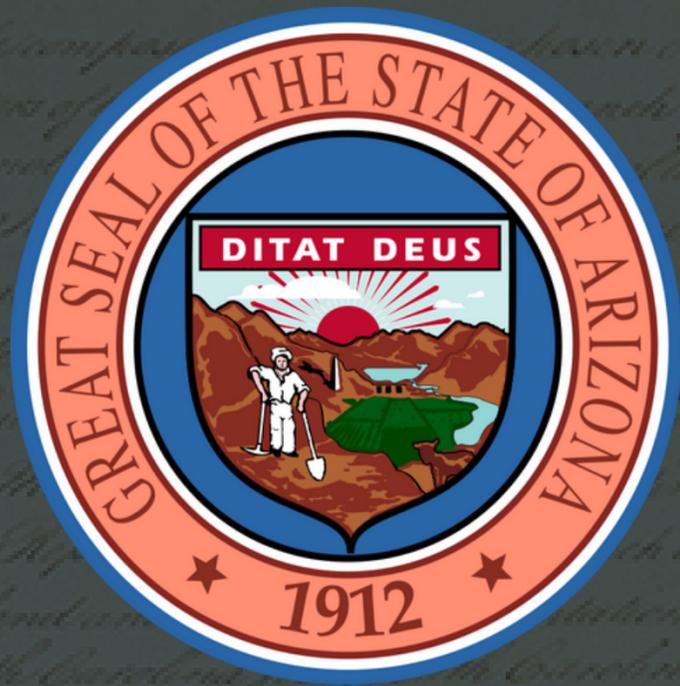


# How The Arizona Senate Can Issue Warrants



Dedicated to: "We The People" and the "United States Legislators"

Inspired by: David Jose & Josh Barnett

We the People

# Preface

## Why the Arizona Senate Needs to Issue A Warrant For The Evidence Maricopa County Is Withholding

The Arizona Senate has issued multiple subpoenas to the Maricopa County Board of Supervisors (MCBOS) for items related to the Nov. 3rd, 2020 General Election. Each time the MCBOS has refused to comply.

The Senate is unable to force the MCBOS to comply with the subpoenas because of poorly written state statutes preventing them from holding the MCBOS in contempt.

There is another option.

This presentation outlines exactly how the Arizona Senate can issue a Warrant for the evidence the MCBOS is withholding using the Arizona Constitution, Senate Rules, Arizona Legislative Manual, and the rules of parliamentary practice and procedure contained in the Mason's Manual for Legislative Procedure.

# Why Senate Subpoenas Are Failing:

## Bad Legislation

### Arizona Revised Statutes § 41-1153 Disobedience of subpoena as legislative contempt

#### 41-1153. Disobedience of subpoena as legislative contempt

A. If a witness neglects or refuses to obey a legislative subpoena, or, appearing, neglects or refuses to testify, the senate or the house may, by resolution entered in the journal, commit him for contempt.

- The MCBOS have violated ARS § 41-1153 by refusing to obey TWO legislative subpoenas
- The only recourse the Senate has is to hold them in contempt by "resolution" because of this poorly written statute
- "A resolution is a declaration or expression of legislative opinion, will, intent, or "resolve" in matters within the Legislature's legal purview"
- This poorly written statute creates two obstacles preventing the Arizona Senate from enforcing the subpoenas because of the restrictions it places on the Senate to punish those individuals who are defying the subpoenas...

# Why Senate Subpoenas Are Failing:

## Two Obstacles Blocking a Resolution

### Reason One: The Arizona Legislature Is Not In Session

The legislature must be in session to hold a resolution.

There are two ways of calling the legislature back in for a special session:

1) By a 2/3rd majority vote of the legislature; or 2) Governor Ducey could call the legislature back into session.

Unfortunately, 2/3rd of the legislature would not support a special session; and Governor Ducey has already demonstrated his unwillingness to call for a special session after the November 3, 2021 election, and less likely now after certifying the 2020 Arizona General Election.

### Reason Two: Republicans In Name Only (RINOs)

Republicans only hold a one seat majority in the Senate. Two of them have spoken out against the Maricopa County audit, and are now voting with the Democrats.

These RINO Senators are: Senator Paul Boyer and Michelle Ugenti-Rita

As a result, a majority vote by resolution will never happen despite the unrealistic hopes by some other Senators that believe the two RINOs will have a change of heart.

# What We've Learned about Legislative Subpoenas

The Arizona Senate has always had the power to issue legislative subpoenas.

The Arizona Senate cannot hold anyone accountable for violating a subpoena without a majority vote to issue a resolution because of poorly written statutes.

# Question?

## What Are the Senate's Options Now?

- 1) Issue another legislative subpoena?
- 2) Ask Attorney General Mark Brnovich to investigate the county's non-compliance?
- 3) Issue a Warrant for the evidence the MCBOS is withholding, which only requires a written report from the committee?

**Answer:**

## **Option 3: The Senate Needs to Issue a Warrant**

**Where does the Senate get the authority to issue a warrant?**

Just like the Senate has always had the power to issue subpoenas, they also have the power to issue warrants.

Both the [Arizona Senate Rules](#) and the [Arizona Legislative Manual](#) give the Senate the authority to issue warrants.

# What is Parliamentary Practice & Procedure?

E. Except as provided herein, conference committees shall consider a bill prior to Saturday of the week in which the ninety-seventh day from the beginning of each regular session falls. No conference committee shall meet to consider a bill after such time without the written permission of the President.

## RULE 24 Parliamentary Practice and Procedure

Parliamentary practice and procedure in the Senate shall take precedence in the order listed:

1. Constitutional provisions.
2. Senate Rules.
3. Statutory rules and provisions.
4. The rules of parliamentary practice and procedure as contained in Mason's Manual of Legislative Procedure.
5. Senate customs and usages.
6. General parliamentary law.

Parliamentary Practice and Procedure directs legislators where to seek guidance, beginning with the Constitution. If the Constitution doesn't address the issue, they are instructed to look to the Senate Rules for guidance, and so on.

*Parliamentary practice and procedure in the Senate shall take precedence in the order listed:*

1. Constitutional provisions
2. Senate Rules
3. Statutory rules and provisions
4. The rules of the parliamentary practice and procedure as contained in the Mason's Manual of Legislative Procedure
5. Senate customs and usages
6. General parliamentary law

Sources: [Arizona Senate Rules](#); [Arizona Legislative Manual](#); [Mason's Manual for Legislative Procedure](#);

## Chapter Five

### Legislative Procedure

#### Parliamentary Procedure in the Senate and the House of Representatives

The legislative procedure of the Senate and House of Representatives is established by the rules of each chamber. The rules adopted by the Senate state that legislative procedure shall be governed by the constitutional provisions, Senate Rules, Arizona statutes, Mason's Manual of Legislative Procedure, Senate customs and usage and general parliamentary law, in that order.

# The Mason's Manual for Legislative Procedure gives the Senate the authority to issue Warrants:

The Mason's Manual for Legislative Procedure is the first resource on the list in the Parliamentary practices and procedures addressing warrants

## RULE 24

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4. The rules of parliamentary practice and procedure as contained in Mason's Manual of Legislative Procedure.

- 5. Senate customs and usages.
- 6. General parliamentary law.

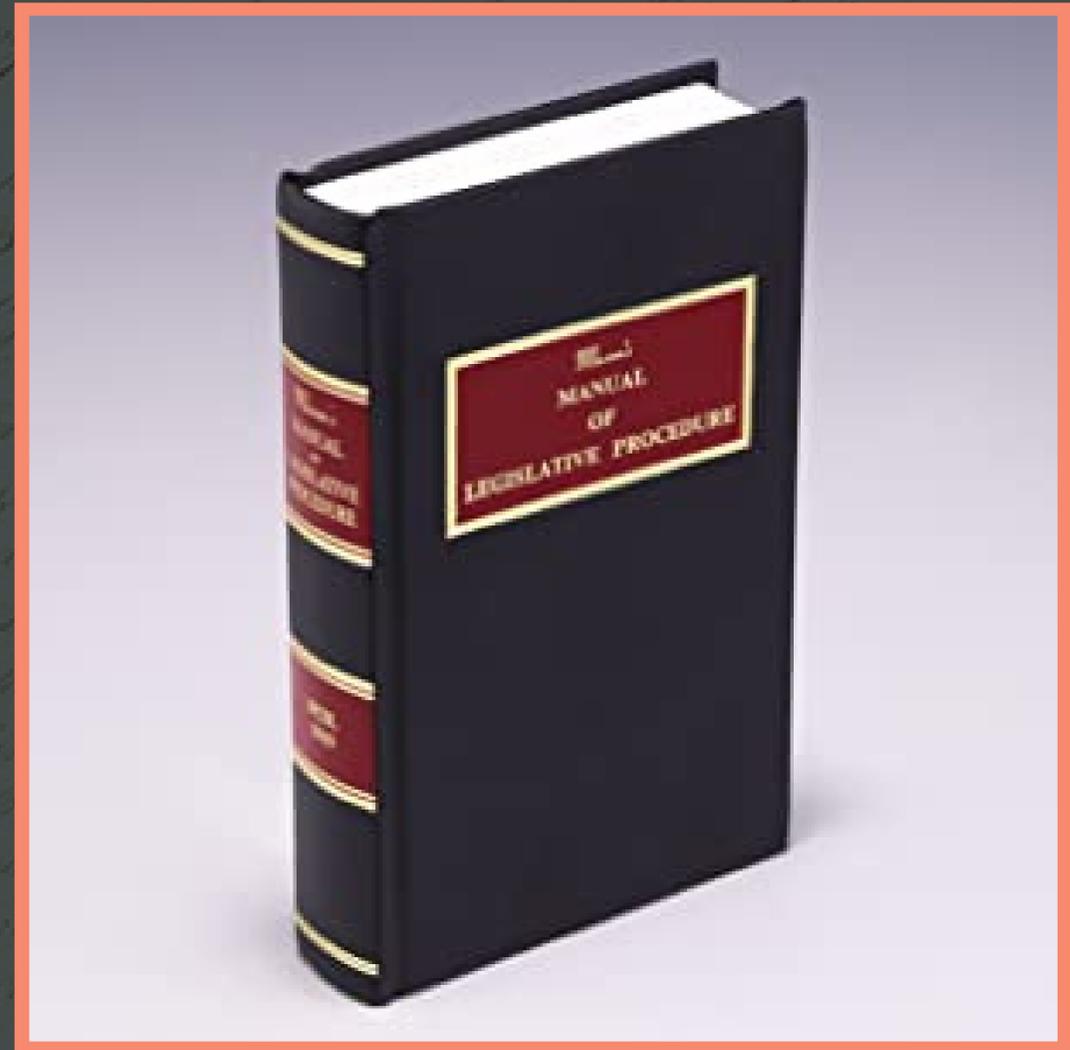
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# What is The Mason's Manual for Legislative Procedure?

The Mason's Manual of Legislative Procedure is the only parliamentary manual designed specifically for state legislatures. It addresses problems and concepts in the contexts that occur most often in legislatures, so it's the easiest guide to understand and use.

Used by more than 70 percent of the nation's legislatures, The Mason's Manual is the No. 1 resource for information on legislative procedure.

Mason's Manual for Legislative Procedure:



# The Mason's Manual for Legislative Procedure gives the Senate the authority to Investigate

## Witnesses in Legislative Investigations

Page 579 Sec. 800

1. The Legislature can compel witnesses to testify
2. Witnesses who refuse to testify without legal cause can be charged with contempt
3. Witnesses do not have to be sworn in to be found in contempt for lying

### Sec. 800. Witnesses in Legislative Investigations

*See also Sec. 797, Limitations on Right of a Legislative Body to Investigate.*

1. By the common parliamentary law, a legislative body may compel the attendance of all persons as witnesses in regard to any subject on which they have power to act, and into which they institute an investigation.

2. The power of a state legislative body to compel witnesses to testify in aid of investigations is an attribute of the power to legislate and follows as an essential implication.

3. When witnesses are brought before either branch of the legislature, they may be compelled to testify by

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Sec. 800

process of contempt, when without legal cause they refuse to do so.

5. A subpoena for attendance of a witness is not vitiated as to the necessity of the attendance of a witness by the inclusion of illegal requirements for the production of documents.

6. When a subpoena duces tecum has been issued under statutory authority showing that the purpose of the examination was within the scope of the inquiry authorized, the court cannot cancel the subpoena nor enjoin the issuance of any further subpoena.

7. When a witness lawfully summoned refuses to appear, a warrant may be issued to compel his attendance.

8. No affidavit charging contempt need be filed before a house to authorize it to issue its warrant to arrest a contumacious person who refuses to testify before one of its committees. The written report of the committee is sufficient authority for the issuance of the warrant.

9. When a prisoner of the State of New York was taken by the sergeant-at-arms of the House of Representatives under a warrant issued by said house, it is not an escape and the state officer was not liable for his release.

Section 802—Continued

Paragraph 5—

Ex parte Hague (1929), 104 N. J. Eq. 31, 145 Atl. 618.

Paragraph 6—

In re Martens (1919), 180 N. Y. Supp. 171.

Paragraph 7—

Ex parte Hague (1929), 105 N. J. Eq. 134, 147 Atl. 220; Wilckens v. Willet (1878), 40 N. Y. (1 Keyes) 521, 4 Abb. Dec. 596; Ex parte Caldwell (1908), 61 W. Va. 49, 55 S.E. 910.

Paragraph 8—

Lowe v. Summers (1897), 69 Mo. App. 637.

Paragraph 9—

Wilckens v. Willet (1878), 40 N. Y. (1 Keyes) 521, 4 Abb. Dec. 596.

# The Mason's Manual for Legislative Procedure gives the Senate the authority to issue Warrants

## Summons, Subpoenas and Warrants

Page 584 Sec. 802 (8)

"No affidavit charging contempt need be filed before a house to authorize it to issue its warrant to arrest a contumacious person who refuses to testify before one of its committees. The written report of the committee is sufficient authority for the issuance of the warrant."

# The Arizona Senate Rules grant the Senate President the authority to sign Warrants

## RULE 2 The President

The President shall have the following powers and duties:

A. The President shall take the chair on every legislative day precisely at the hour to which the Senate, at its last sitting, adjourned; immediately call the members to order and on the appearance of a quorum, cause the Journal of the proceedings of the last day's sitting to be read.

B. The President shall have control of the Senate Chamber, including seating assignments of members therein, all other parts of the Senate wing and all other areas and buildings used exclusively by the Senate.

C. The President shall preserve and maintain order and decorum.

D. The President shall sign all acts, addresses, joint resolutions, writs, warrants and subpoenas issued by the order of the Senate, and decide all questions of order, subject to an appeal by any member, on which appeal no member shall speak more than once, unless by permission of the Senate.

E. The President shall state all questions in the proper order in which they shall be disposed.

## Arizona Senate Rule 2(D)

*"The president shall sign all acts, addresses, joint resolutions, writs, warrants and subpoenas issued by the order of the Senate..."*

*Source: Arizona Senate Rules*

# The Mason's Manual for Legislative Procedure gives the Senate the power to Compel

## Compelling Witnesses to Attend and Testify. Power to Punish for Contempt

Page 581 - 583 Sec. 801

1. The Legislature can punish for disobedience
2. The right to compel witnesses to produce books and papers is determined by necessity & can't be refused merely because they are private.

### Sec. 801. Compelling Witnesses to Attend and Testify. Power to Punish for Contempt

1. Each house of the legislature may punish breaches of its authority when they are committed in its presence, and may equally punish a witness for contempt of the house for his refusal to appear or testify before a properly empowered committee or to produce books and papers.

6. The right to compel a witness to produce books and papers before a legislative committee is determined by whether their production is necessary to the inquiry

which it is conducting, and the production of papers material to an inquiry cannot be refused merely because they are private.

# Dominion's letter of defiance to the Senate's authority to Compel

## Compelling Witnesses to Attend and Testify. Power to Punish for Contempt

Page 581 - 583 Sec. 801

1. The right to compel witnesses to produce books and papers is determined by necessity & can't be refused merely because they are private.



Kory Langhofer  
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Phoenix, AZ 85003  
kory@statecraftlaw.com

**Re: Response to Public Record Request**

Dear Mr. Langhofer:

I am responding on behalf of Dominion Voting Systems, Inc. ("Dominion")<sup>1</sup> to a July 23, 2021 letter from Senate President Karen Fann purporting to issue a "public records request" to Dominion under the Arizona Public Records Law ("the Law"), A.R.S. § 39-121 *et seq.* Dominion is not a public officer or public body and, therefore, has no obligation to make its records available for public inspection. See A.R.S. § 39-121 ("Public records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours.") (emphasis added); see also A.R.S. § 39-121.01(A)(1) ("'Officer' means any person elected or appointed to hold any elective or appointive office of any public body."); A.R.S. § 39-121.01(A)(2) (defining "Public Body"). Relatedly, Dominion's privately-owned security keys and confidential passwords are not "public records" subject to disclosure under the Law. See *Salt River Pima-Maricopa Indian Community v. Rogers*, 168 Ariz. 531, 538-59 (1991) (discussing meaning of "public record" under the Law, without giving any indication that public records includes the private property of a private corporation); see also *Carlson v. Pima Cty.*, 141 Ariz. 487, 491 (1984) (even where public records are at issue, Law does not require disclosure of confidential material).

Accordingly, because the Law has no application, Dominion will not produce or allow inspection of the materials requested in Senator Fann's July 23 letter.

Regards,

A handwritten signature in black ink, appearing to read "John Poulos".

John Poulos  
President & CEO

<sup>1</sup> This letter also responds on behalf of U.S. Dominion, Inc. and Dominion Voting Systems Corporation.

# The Mason's Manual for Legislative Procedure defines the method of Investigation

## Method of Investigation by Legislative Body

Page 575 Sec. - 798

1. The Legislature is NOT to be RESTRICTED
2. The Judicial Branch is FORBIDDEN to trespass on the authority of the Legislature in it's capacity of Inquiries.
3. The authority of the Legislature cannot be interpreted as interference of the Judicial Branch

### Sec. 798. Method of Investigation by a Legislative Body

1. The legislative arm of government is not to be restricted in the exercise of the power of inquiry by the fact that methods and processes, judicial or quasi-judi-

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MASON'S LEGISLATIVE MANUAL Sec. 798

cial in character, are employed in the course of the inquiry; and it is immaterial whether the power of inquiry is to be exercised by a state or a federal legislative body, or whether in the exercise of that power the legislative arm of the government is acting under or by virtue of granted or reserved authority, or what the particular constitutional limitations may be which separate legislative from judicial functions of government and which forbid the trespass of the one on the domain of the other.

2. Legislative bodies, by the mere employment of methods of procedure which resemble those employed or required in judicial proceedings, are not to be held to be engaged in the exercise of a judicial function and to be thereby trenching upon the area exclusively assigned to the judicial department of the state government.

# We the People Epilogue

## The Arizona Senate Needs to Issue A Warrant For The Evidence Maricopa County Is Withholding

Every Senator and House Representative in the Legislature has a duty to protect the property and freedoms of their constituents. We the People elect these men and women to serve us and execute our will.

For too long, our elected representatives have become complacent and only concern themselves with their own popularity and power. They have forgotten whom they work for and the awesome responsibility that they have to their citizens.

Anyone who interferes in the lawful execution of the Senate's ability to conduct an audit of a presidential election MUST be considered an enemy of the people. Every Legislator swore an oath to support and defend the Constitution of the United States against all enemies foreign and DOMESTIC!

We the People

## The Oath

"I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God."