

**ACLU** **AMERICAN CIVIL LIBERTIES UNION OF COLORADO**  
**COLORADO SPRINGS CHAPTER**

June 4, 2003

Honorable Lionel Rivera  
Mayor, City of Colorado Springs  
30 South Nevada Ave  
Colorado Springs, CO 80903

Dear Mayor Rivera,

A number of issues relating to the recent City election of April 1, 2003 have been brought to the attention of the Colorado Springs Chapter of the American Civil Liberties Union by Citizens for Accurate Mail Ballot Election Results (CAMBER). An investigation by CAMBER members suggests that the constitutional voting rights of thousands of Colorado Springs voters may have been denied or compromised. Moreover, there appear to have been a number of irregularities in tabulating and reporting the results of the election. Although these irregularities may not have affected the outcome of the election, they need to be examined in order to assure that future elections will accurately reflect the intentions of voters.

Many irregularities in the city election are revealed in official documents. These documents include a memorandum to the City Council from the Election Canvass Board signed by former Mayor Makepeace and City Clerk Young, the election verification totals report, and a summary by date of ballots scanned and pulled. Copies are attached.

The ACLU Chapter Board is concerned that some 81,000 eligible voters were in effect disenfranchised in this election because the City Clerk did not send ballots to them. We understand such action is permitted under current state law. That was, however, an important policy decision. It is not clear how or why such a critical decision was made. It only became public knowledge late in the election process. Voters who did not vote in the previous election had no way of knowing that would exclude them from participation in the next city election. It is also important to note that the calculated saving of some \$100,000 claimed as justification by the City Clerk for undertaking a mail ballot election was based on not mailing ballots to tens of thousands of voters.

CAMBER has pointed out that the currently available records of the city election reveal a number of statistical and computational inconsistencies. The total number of active registered voters seems to be in doubt. The Canvass Board memorandum indicates there were 141,614 active registered voters in the election. A check with the County Clerk's office, however, indicated that there were 222,691 registered voters in the City of Colorado Springs as of March 3, 2003, the cutoff date for registration for the election. Using the criteria used to determine an "active" voter (i.e., that an elector had voted in the November, 2002 election) the County Clerk's office has stated there were 138,473 "active" voters in the city. Apparently 3,141 electors were sent ballots even though they had not voted in the previous election, while tens of thousands of other registered voters were not.

The Canvass Board memorandum indicates 142,194 ballots were issued. However, the Election Verification Totals suggests that, in fact, 148,609 ballots were issued (88,879 processed ballots + 59,730 unreturned ballots). There are other small arithmetic errors on the Election Verification Totals report. The sum of the Accepted Ballot Totals (81,709) plus Challenge Ballot Totals (668) plus Denied Ballot Totals (102) is 82,479. Yet the Total Scanned Ballots total is given as 82,463, a difference of 16 ballots. Other evidence suggests the Undeliverable Ballot Totals should be 6,476 rather than 6,416, possibly due to a

typographical error.

The Total Ballots Scanned given on the Election Verification report of 82,463 (or 82,479) differs from the daily totals of ballots scanned, which indicates there were 97,620 ballots scanned. Poll watchers were prevented from directly observing and questioning the scanning process, a serious issue in itself that should be investigated. The City Clerk and election judges surely kept an audit trail of ballots that were rejected by the scanning process and how such ballots were subsequently handled. That audit record has not been made public. There are more problems with the daily totals of ballots scanned. The number of ballots scanned (97,620) minus the number of ballots pulled (15,929) is 81,691. But 81,709 ballots were counted in the election. Obviously these various reports are inconsistent and confusing.

The errors and discrepancies in the election led CAMBER members to attempt a careful review of the election records and pollbook. In April, Mrs. Carol Pfeffer, a resident of El Paso County, an accredited poll watcher for mayoral candidate Tony Carpenter, and a member of CAMBER, requested this information in electronic form. Blain Alan Johnson, Senior Information Systems Analyst in the City Clerk's Office, replied that a fee of perhaps \$2000 (based on a cost of \$0.01 per voter) would be necessary to make those public records available. Mrs. Pfeffer also requested a copy of the voter registration file essential to resolving questions about this election. The City Clerk quoted a cost of \$353 for those records. Obviously these fees impose a difficult burden on citizens and candidates who wish to ascertain the accuracy and validity of election results. It is the position of the ACLU that these charges are unreasonable and unnecessary, and far beyond the actual expenses incurred in transferring electronic data to a CD-ROM, which Mrs. Pfeffer supplied.

As this mail in election was justified to City Council on the basis that substantial cost savings would result, CAMBER also requested an accounting of actual costs. To date that has not been received.

We are writing now to request that the City provide these essential records freely and willingly in order to help resolve the many questions associated with this election. We ask that the City Council direct the full records be made available in electronic form, and the city officials give inquiring citizens necessary cooperation. A study of the data is desirable to validate the results of this election and lay the foundation for accuracy in future city elections. Some explanation and reconciliation of the inconsistencies in the Canvass Board memorandum, the Election Verification Totals report, and the summary by date of ballots scanned and pulled is also requested.

We hope the City Council will give prompt attention to the request that CAMBER has made. The voting rights of citizens, essential in democracy, are at stake. That is why the ACLU is concerned about this matter.

Sincerely,



William R Hochman  
Chairman, Colorado Springs Chapter  
American Civil Liberties Union

cc: City Council  
City Manager, Lorne Kramer  
City Clerk, Kathryn Young  
CAMBER