

## **Minority Report: El Paso County Canvass Board**

December 5, 2023

To: Steve Schleiker, Clerk and Recorder, El Paso County, Colorado

From: Candice Stutzriem Republican Canvass Board Member, El Paso County

In keeping with the spirit of Section 11 of article VII of the Colorado constitution, **“to secure the purity of elections and to guard against the abuses of the elective franchise,”** I have elected not to certify the Nov 7, 2023 Coordinated Election on behalf of the El Paso County Republican Party.

My findings are based partially on actions, rules and statutes of the Colorado Secretary of State, while other complaints are directed at election operations observed in El Paso County.

### **Colorado Secretary of State**

1. The duties of the Canvas Board Member (CBM) outlined in CRS 1-10-101.5 calls for reconciliation of the number of ballots counted in an election not to exceed the number of ballots cast; to reconcile that ballots cast by precinct does not exceed the number of electors registered; and then to certify the entire abstract of votes cast in the election.

The concept that the *only* duty of the CBM is to agree that four sets of contrived numbers actually agree, and that the comparison translates to an endorsement of the veracity of an entire election is simply irrational. This process has been in place for years as the Secretary of State has incrementally shifted the burden of election supervision away from the people and the county and concentrated it under her purview.

What of the origin of the numbers themselves. *“Ballots cast”* begins with unchecked, inflated voter rolls presently under court order in

Colorado to rein them in. Countless undeliverable ballots have proliferated, ripe for exploitation. With no chain of custody, fraudulent ballots can be created in the wild; mailed in or stuffed into obscure drop boxes. Next they are processed at blinding speed by an enigmatic, automated process that, as legal experts assert, amounts to no signature verification at all. There is no way to prove there is a single, verified, legal voter behind each ballot cast. *“Ballots counted”* are numbers arrived at by uncertified, Chinese-built tabulators with dubious internet capability designed right into the machines.

But if these numbers agree, then there is nothing to discuss? The certification process has been dumbed down to eliminate human judgement and oversight. Even the audit process is absurdly contrived to fool the ignorant and turn away the jaded. By reducing CBM duties to a shell game of comparing numbers, you have eliminated their voice and disenfranchised the tens of thousands of voters they represent. The canvass boards are effectively a facade of citizen oversight. This process turns out the light on an already dim, deliberately opaque process that benefits the few and enslaves the rest. If the numbers can't be verified, they cannot be certified.

2. The Secretary of State in Colorado has not done enough to prevent non-citizens from appearing on the voter rolls nor to prevent them from voting. Colorado Amendment 76, the Citizens Requirement for Voting Initiative, was initiated into law Nov 3, 2020. It states, “Only a citizen of the United States who has attained the age of eighteen years... shall be qualified to vote at all elections.” Amendment 76 is a change to the Colorado constitution. According to legislative supremacy clause, all Statutes, rules, and county regulations are subordinate to the state Constitution. The Secretary of State has sworn fealty to the state constitution in her oath of office. It is her duty to promulgate rules which uphold the superior law of the constitution which should include a provision to verify citizenship.

Presently, non-citizens are able to receive drivers' licenses and Social Security numbers in Colorado, two of the numeric identifiers necessary to register to vote. Although our citizens voted to make citizenship a requirement to participate in elections, Secretary of State Jena Griswold has seized on this open door. In October 2022 she infamously "accidentally" mailed postcards to 30,000 non-citizens who possessed both SSNs and DL numbers to encourage them to register to vote.

Today, non-citizen voters may present themselves to receive a ballot at statewide Voting Service and Polling Centers. Here, the voter is asked to simply check a box to verify their citizenship and eligibility to vote. The system relies on the elector's signature on the form to attest that all the information is correct. Many non-citizens are already felons for illegally entering the United States. Colorado is asking felons with proven disregard for US law, to attest to their own citizenship. It might be reasonable to offer these unvetted voters a provisional ballot until the question is resolved. Instead, by signing the form attesting to their citizenship, they are awarded a regular ballot with no follow-up or intention to verify.

### **El Paso County Voting Operations**

1. Title 1-7.5-105 indicates the secretary of state "shall promulgate rules to ensure the privacy of each elector's vote." In recent elections, a secrecy envelope was incorporated to conceal and maintain the confidentiality of the elector's vote. This year, a new contract with a printer in WA state, eliminated the security sleeve and opted for a security pattern to be printed on the inside surface of the return envelope. The security pattern was intended to be sufficiently occlusive to ensure privacy of the voter's selections. However, this approach failed to pass the at-home "candling" test by simply shining the bright light of one's cell phone beneath the envelope. Doing so

easily revealed the marked bubbles on the experimental ballot, and a twenty dollar bill in another test.

This complaint was reported during this election cycle and dismissed by the Secretary. The statute makes clear that use of the secrecy sleeve is decided upon agreement between the clerk and the SOS. If the trend is to eliminate the security sleeve, then attempts to make the ballot secure by obscuring the envelope must be improved upon to ensure the fundamental veracity of the Secret Ballot in El Paso County as required in statute.

Other questions regarding die-cut holes in the envelopes which reveal mysterious bar codes, in addition to multiple bar codes on the external and return envelopes, raise concern for voter privacy. One Midwestern state passed legislation that no markings unreadable to humans are permitted on the outside of their envelopes. Citizens with bar code readers claim these markings reveal the party of the voter. I place the burden of proof on the Clerk and Recorder and the USPS to explain the importance of these markings and assure the public that voter's personal identifying information is not compromised. I prefer the elimination of the markings altogether, in the interest of complete transparency.

2. When Secretary Griswold awarded one million dollars to county clerks in the interest of enhancing election security, EPC Clerk Schleiker made a wise choice to do something about those security cameras. The video surveillance cameras trained on the 39 ballot drop boxes scattered throughout the county were decrepit and in disrepair. He rolled out the new system to public acclaim, asserting the new solar-powered system exceeded all SOS rules and statute and offered "full transparency" to counter the waves of "misinformation" surrounding voter drop box insecurity.

Specifically, Rule 7.4.1, regarding surveillance of secure areas, requires the county clerk to adequately light all drop box locations. The ballots must be collected in a locked container, and both the drop-slot and container must be monitored. Signage must inform voters that it is a violation of law for any person to collect more than ten ballots in any election. Drop box locations must be open 24 hours and the video security surveillance must be retained by the county.

A light. A lock. A container. A video camera. A sign. And don't destroy the recordings. Not a high bar. It's not difficult to exceed standards when the expectations are set so low. Most of us saw the documentary "2000 Mules." and we know what can and does happen at voter drop boxes. What exactly does this system do to prevent this nefarious activity? Sadly, for many of the boxes, these security measures will do little to thwart the crime.

For many, the camera is positioned behind the drop box, obscuring view of the slot. The observer is unable to verify the 'honor system' of ten ballots per election is being practiced during those 3am visits. The camera cannot visualize the car, the person or the activity of the voter. The slots are not designed to accept only single envelopes like the post office, so it's open to as many as one can force through the slot without calling attention to themselves. Further, the cameras do not detect the license plates of the vehicles transiting the drop box. There is no assumption of privacy for a license plate in a public area. It is a publicly displayed label indicating vehicle registration, ownership and residence for the purposes of associating the vehicle to the operators themselves and their actions. What better way to detect repeat visits to the drop boxes than by identifying the license plate?

It's as if the security systems are set up to create the appearance of security when little has been actually achieved to enhance overall

scrutiny of the operation. If the SOS wanted to catch the perps, the camera would be trained to see their face, observe their hands, to identify their car, and even digitally record the license plate. That would be money well spent. Seems what we got was a face lift on the old decrepit system that never worked. We can do better.

Ballot drop boxes and the post office have neither counters nor chain-of-custody documents nor adequate security measures. So ballots which electors believe have been faithfully cast might be lost, accidentally or intentionally, before being processed inside the clerk's office. Since the number of such ballots is unknown, it could conceivably be large enough to reverse the results of any contest. Therefore "the results" of the election are unknown and the election cannot be certified.

3. The Risk Limiting Audit is an enigma and deliberately so. It is an unsolvable puzzle set up to be a mathematical Gordian knot for the voters to muse upon. Rather than rely on a hand count recount which is observable, repeatable and understood by all, Secretary of State disallowed the hand count recount of voter verified paper records (actual ballots) in SB 23-276. She also eliminated the possibility of any third party audits of an election in SB22-153. In place of the time-tested and people-proven hand count method, and the objectivity of a disinterested third-party audit, Secretary of State implemented a concept so esoteric and poorly understood that even those conducting the test seem to not understand how it is intended to work.

It starts with the toss of twenty ten-sided dice (plural of die) to establish a RANDOM SEED to begin the count. This is the stuff PhD mathematicians dream of. However, the developer of the concept, Dr. Phillip Stark of Berkeley, CA, now warns that use of the Risk Limiting Audit as an election watchdog "has lost its way" and that

elections are at risk for it. Dr. Stark has been consulted regarding the Colorado statewide RLA for this November 7, 2023 Coordinated Election. The study is presently underway.

In El Paso County and all of Colorado, the Risk Limit is set at 3%. Of the roughly 200,000 ballots cast, the Risk Limit is 6,000 ballots. That means the test can involve no more than a pool of 6,000. Of the 6,000, a smaller number is divined by the SOS to be audited. For our two races, SOS instructed that 205 ballots be selected, retrieved from storage and compared against the Cast Vote Record. The audit passed with flying colors. All the ballots were filed perfectly and the ballots matched the images. Be aware. 205 of 200,000 is a ratio of 0.00125, or 0.125 percent of the total ballots cast. The sample is absurdly small to have meaning in a contest like the Prop HH vote, where the margin was almost 68,000. That's enough for me to raise my hand and ask for help. The state Republican Party is demanding an explanation we all can understand.

I do understand hand-counted paper ballots. Let the people speak.

4. The riddle of the perpetual wall of undeliverable ballots continues to confound the observer. Nearly 28,000 undeliverables priced at \$8.00 a ballot totals approximately \$225,000 in wasted money and resources. Despite the lauded Experian Project and court-ordered efforts by the SOS to trim up the voter rolls, inactive voters are rapidly replaced by new actives and the cycle seems to continue. The problem appears unsolvable. Suggest the EPC clerk convene an interdisciplinary team of legislators, USPS experts, voter advocates and election supervisors to brainstorm new approaches to solve this perennial problem.
5. I was not informed of the pre-election demonstration of the Logic and Accuracy test and therefore did not witness or attest to the results.

The LAT determines that the voting system is properly programmed, the election is correctly defined on the voting system, and all of the voting system's input, output, and communication devices are working properly in advance of conducting the election. Statute requires notice that the public test will take place be posted...in the county for at least seven days before the public test.

Colo Rev Stat 1-7-509 states "The public test shall be open to representatives of the political parties, the press, and the public... Each major political party, minor political party, ballot issue committee...may designate one person, who shall be allowed to witness all public tests and the counting of pretest votes."

I was not invited. The Republican Party was not represented. I notified the clerk of their indiscretion upon discovery. An after-the-fact report of the Logic and Accuracy test is now being prepared.

In fairness to Steve Schleiker and the entire staff of the El Paso County Elections Department, I would be remiss not to end this report on a positive note. Since Steve first set foot in the office, his list of improvements, changes to procedure and finding better ways altogether, has not gone unnoticed. From the Experian project to the surveillance cameras to the new suite of tabulators including enhanced security measures, all have gone a long way to restore openness with the public they serve. I believe our relationship of holding each other to account and raising the bar of transparency will continue to produce meaningful positive change in voter operations in EPC. As we keep our eye on the shared interest of protecting our first right of suffrage, the Secret Ballot, and placing the voice of the people above the voice of the elective franchise, we will accomplish more together than we can apart.

Respectfully,

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Republican Canvass Board Member,

El Paso County



