



**INVESTIGATION FINDINGS RE:  
ELECTION COMPLAINT DATED SEPTEMBER 25, 2023**

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The Office of the City Attorney ("Office") is in receipt of a complaint dated September 25, 2023 ("Complaint"), filed with the El Paso County Clerk and Recorder ("County Clerk") and forwarded to this Office by the County Clerk on September 29, 2023 (attached).

Pursuant to the Code of the City of Colorado Springs 2001, as amended ("City Code") § 5.1.218(A):

Any person may file an affidavit or complaint stating the name of any person who has violated any of the provisions of this chapter or of the Colorado Municipal Election Code and stating the facts which constitute the alleged offense with the City Attorney. Upon the filing of an affidavit, the City Attorney shall investigate, and if reasonable grounds are found, the City Attorney shall prosecute the violation in the Municipal Court in the same manner as other ordinance violations.

While the Complaint was not filed as an affidavit and would not, therefore, trigger an investigation as set forth in City Code § 5.1.128(A), this Office chose to investigate the allegations set forth in the Complaint. The Office reviewed relevant documentation, including but not limited to the City Code, the Colorado Revised Statutes, the City's mail ballot plan, and responses to Colorado Open Records Act ("CORA") requests. Additionally, the Office conducted interviews of members of the City Clerk's Office with personal knowledge of the information contained in the Complaint. Each allegation is addressed below in the order presented within the Complaint.

1. The Complaint alleges, "[t]wo deceased voters. This information begs the question of how that could happen."

This Office finds that, pursuant to City Code § 5.1.115, the City Clerk received a list of registered voters from the County Clerk, who is charged with responsibility for maintaining the list. Based on the list provided by the County Clerk, City election ballots were mailed to registered voters. The City Clerk became aware of ballots sent to two deceased individuals through communications from Integrity Matters. The City Clerk determined one of the ballots was returned to the City via the United States Postal Service ("USPS"), indicating that the person listed on the ballot was deceased. As a result, that individual ballot was never processed and counted. The other ballot in question has been referred to the Colorado Springs

Police Department at the request of the City Clerk for investigation and potential criminal charges.

Any alleged election violation resulting from these ballots being returned would be specific to the individual returning the ballot. This Office found no evidence to substantiate reasonable grounds that the City Clerk's Office violated any provision of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

2. The Complaint alleges, “[a] bizarrely low signature sensitivity setting of 25, on a scale of 0-99, when the County uses 55.”

This allegation was addressed by the City's response to Integrity Matters' Colorado Open Records Act (“CORA”) requests regarding this allegation. This Office finds that the County Clerk does not use the same automatic signature verification software system as the City. It is beyond the scope of this investigation to compare or determine the appropriateness in software settings for different types of automatic signature verification programs.

This allegation does not set forth reasonable grounds that a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code occurred.

3. The Complaint alleges, “[t]wenty-six thousand four hundred voters (over 25% of the total) had never voted in a Municipal Election in 2011.”

This is not an allegation that would constitute a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

4. The Complaint alleges, “[n]umerous Chain of Custody problems” including:
  - a. “1,199 ballots slumbered somewhere.”

This allegation was previously addressed by the City's response to Integrity Matters' CORA requests. The Office finds that, following election worker training conducted by the City Clerk's Office on the morning of March 13, 2023, ballot pickups occurred in the late afternoon of the same day. The ballots were transported in sealed ballot transfer boxes to the City Administration Building (“CAB”) between 4:30-5:00 P.M. The sealed ballot transfer boxes were stored overnight in a secured room in the City Clerk's Office in the CAB, and then subsequently unsealed and processed the next day. There is no evidence substantiating a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

- b. "397 votes have no transit logs."

This Office finds that the total number of ballots tallied on the transit logs plus the ballots received by the City Clerk's office from the USPS reconcile with the total number of ballots processed for the election. There are no reasonable grounds to substantiate a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

- c. "Three hundred nine ballots that have no location for a net of 88 votes, at a minimum, now are reported without any possible transit log."

This Office finds that there is no evidence substantiating this allegation and there are no reasonable grounds to substantiate a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

- d. "Seventeen ballots collected on 3/29/2023 from the UCCS drop-box were not logged into the City Clerk's Office until the following day, 3/30, on the log. The City Clerk reported 0 ballots on 3/29 at that location."

This Office finds that any ballot pickups received after approximately 5:00 PM remained in sealed ballot transfer boxes and were stored overnight in a secured room in the City Clerk's Office in the CAB. The ballots were then unsealed and processed the following day. There are no reasonable grounds to substantiate a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

- e. "Every transit log had an error, missing a date, time, illegible signature, no transit seal number, etc."

This Office finds that there were 767 ballot transit logs completed during the April 4, 2023, election. Each log has multiple data entry areas on the sheet for location, date, time, signatures, and seal numbers. Ninety-six of the 767 ballot transit logs had one data element missing in one section. Sixty-three logs were missing date/time in one area, 23 were missing a signature in one area, 8 were missing one signature and a date/time, and 2 had seal numbers not written in the assigned box but the numbers were written on the log. Based on the remaining data on each log sheet and the totality of the circumstances, the City Clerk's office concluded that ballot security was met. The evidence indicates that none of the missing data on any of the transit logs would constitute a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

- f. "99.6% (764 of the 767) transit logs had illegible signatures, making it impossible to track the chain of custody transparently."

This Office finds that there is no legal requirement for election judges' signatures to be "legible." Election judges are appointed by the City Clerk

and are known to the Clerk and City Clerk's Office staff. This Office finds that this allegation does not constitute a violation of the provisions of Chapter 5 of the City Code or the Colorado Municipal Election Code.

- g. "The ballot drop-box location needed clarification on 7 of the 767 logs, representing 309 votes."

This Office finds that there is no evidence substantiating this allegation and that there are no reasonable grounds to find a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

- h. "110 of the 767 transit logs accounting for 12,271 votes needed signatures."

This Office finds that a total of 767 ballot transit logs were used in the April 4, 2023, election. Of those 767 logs, 23 were missing a signature in one area. The transit logs had more than one signature area and based on the remaining data on each log sheet and the totality of the circumstances, the City Clerk's office concluded that ballot security was met.

This Office finds that the Clerk's Office's conclusion was reasonable and that this allegation does not constitute a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

- i. "Transit judges signed for the City Clerk receiving the ballots on 371 of the 767 pickups, representing 37,138 votes. The City Clerk should be signing these; that's the point of that designation on the form."

This Office finds that there is no legal requirement for the City Clerk to sign ballot transit logs. Transit judges are election workers/judges/City Clerk staff and are assigned other duties while not performing transit duties, to include opening and verifying sealed transit boxes as needed for the City Clerk's Office. This allegation does not constitute a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

- j. "Twenty-seven instances where the City Clerk reported totals do not match the transit logs."

This Office finds that there is no evidence to substantiate this allegation and that there are no reasonable grounds to substantiate a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

- k. "A fraudulent log at the CAB on 4/4/2023 showed 387 votes, yet the chain of custody ballot box video shows it not opened at 7:06 pm or any time near that as the log claimed."

This Office finds that the 387 CAB log referenced in the Complaint was correct, however another CAB log of 336 ballots at 7:01 P.M. was misidentified and should have been attributed to the Powers DMV location. This mistake was identified by the City Clerk and does not constitute reasonable grounds to substantiate a violation of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

1. "Multiple instances of the transit seals to "lock the ballots in transit" were not used."

This Office did not find that transit seals were missing. As a result, there are no reasonable grounds to substantiate a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

5. The Complaint alleges, "42% of the votes cast had no ballot box video coverage, which State Laws mandate as part of the chain of custody of the ballots."

This Office finds that neither Chapter 5 of the City Code nor the Colorado Municipal Election Code requires "video coverage" of ballot boxes. Nevertheless, as an extra security measure, the City Clerk requested the County Clerk turn on the cameras at each drop box location. The County Clerk turned the cameras on and agreed to send the City all video footage of the April 4, 2023 election. Neither the City Clerk nor any City employee had the ability to access or control any camera operated or owned by El Paso County. The County Clerk informed the City Clerk that if a Mayoral runoff was needed, the video footage of the April 4, 2023, election would not be available until after the completion of that runoff election. Once the runoff election of May 16, 2023, was completed, the County Clerk sent the City Clerk's Office two hard drives with the video footage, along with a note indicating the days and times when the County Clerk's cameras were not functioning.

There was no video footage of the days/times when El Paso County's cameras were not functioning. The City Clerk had no knowledge of this until the video footage was received from the County Clerk. This Office finds that this allegation does not constitute a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

6. The Complaint alleges, "53% of the election night transit judges are the who-is-who of the Suthers senior administration with many of the top fire officials, including husband and wife teams, such as Fire Chief Randy Royal and his wife."

This Office finds that this allegation does not constitute a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code.

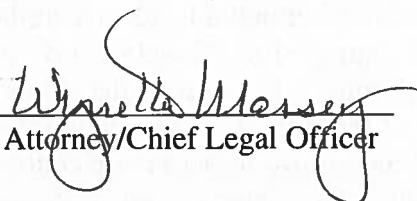
7. The Complaint alleges, "[r]efusal to allow mayoral candidate Kat Gayle, who came in fourth, meaning she has standing, to inspect the ballot return envelopes."

This Office finds that this allegation does not constitute a violation of the provisions of Chapter 5 of the City Code or of the Colorado Municipal Election Code. The City Clerk communicated to Ms. Gayle that she has the right to inspect her own return ballot envelope, however Colorado state law, specifically CORA at C. R. S. § 24-72-204(8)(a) prohibits the City from allowing Ms. Gayle to inspect any other ballot return envelopes.

Based on the evidence obtained through the investigation, this Office concludes there are no reasonable grounds to find any violations of Chapter 5 of the City Code or the Colorado Municipal Election Code and declines to prosecute any allegations of violations against the City Clerk with respect to the Complaint in Municipal Court.

SUBMITTED:

November 14, 2023

BY:   
City Attorney/Chief Legal Officer

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**From:** Steve Schleiker <SteveSchleiker@elpasoco.com>  
**Sent:** Friday, September 29, 2023 5:00 PM  
**To:** EXTERNAL Sarah Johnson; Massey, Wynetta; Michael Allen; Steven Klaffky  
**Cc:** Kristi Ridlen; Angela Leath; Integrity Matters; Steve Schleiker  
**Subject:** FW: APRIL 4th MUNICIPAL ELECTION COMPLAINT (EMAIL #1)

**Importance:** High

**CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!**

Ms. Johnson, Ms. Massey, Esq, Mr. Klaffky, Esq, and Honorable Mr. Michael Allen, Esq:

On Monday, September 25, 2023, the El Paso County Clerk and Recorder's Office received a formal complaint about the City of Colorado Springs April 4, 2023, General Municipal Election from Integrity Matters

Below is the Formal Complaint received.

***After numerous meetings and requests for answers, which have gone unanswered by City Clerk Sarah Johnson, we have asked El Paso County Clerk and Recorder, Steve Schleiker to file a complaint with the State of Colorado Attorney General Phil Weiser to conduct a forensic investigation into the April 4, 2023, Municipal Election.***

***Concerned by anomalies in some of the returns, Integrity Matters, and a team of concerned citizens, including the Maverick Observer, spent a month meticulously analyzing the data, the ballot transit logs, and the videos of the ballot boxes, which produced alarming findings like:***

- ***Two deceased voters. This information begs the question of how that could happen.***
- ***A bizarrely low signature sensitivity setting of 25, on a scale of 0-99, when the county uses 55.***
- ***Twenty-six thousand four hundred voters (over 25% of the total) had never voted in a Municipal Election in 2011.***
- ***Numerous Chain of Custody problems:***
  - ***1,199 ballots slumbered somewhere.***
  - ***397 votes have no transit logs.***
  - ***Three hundred nine ballots that have no location for a net of 88 votes, at a minimum, now are reported without any possible transit log.***

- **Seventeen ballots collected on 3/29/2023 from the UCCS drop-box were not logged into the City Clerk's Office until the following day, 3/30, on the log. The City Clerk reported 0 ballots on 3/29 at that location.**
- **Every transit log had an error, missing a date, time, illegible signature, no transit seal number, etc.**
- **99.6% (764 of the 767) transit logs had illegible signatures, making it impossible to track the chain of custody transparently.**
- **The ballot drop-box location needed clarification on 7 of the 767 logs, representing 309 votes.**
- **110 of the 767 transit logs accounting for 12,271 votes needed signatures.**
- **Transit judges signed for the City Clerk receiving the ballots on 371 of the 767 pickups, representing 37,138 votes. The City Clerk should be signing these; that's the point of that designation on the form.**
- **Twenty-seven instances where the City Clerk reported totals do not match the transit logs.**
- **A fraudulent log at the CAB on 4/4/2023 showed 387 votes, yet the chain of custody ballot box video shows it not opened at 7:06 pm or any time near that as the log claimed.**
- **Multiple instances of the transit seals to "lock the ballots in transit" were not used.**
- **42% of the votes cast had no ballot box video coverage, which State Laws mandate as part of the chain of custody of the ballots.**
- **53% of the election night transit judges are the who-is-who of the Suthers Senior Administration with many of the top Fire Officials, including husband and wife teams, such as Fire Chief Randy Royal and his wife.**
- **Refusal to allow Mayoral Candidate Kat Gayle, who came in fourth, meaning she has standing, to inspect the ballot return envelopes.**

**Integrity Matters has been asking Ms. Sarah Johnson for answers for months and has not heard back. Our goal has never been to overturn the results. We came to this position quite honestly in seeing initial anomalies, which led us to more and more problems. Quickly, it became clear that we cannot rule out fraud, and voters deserve better than this. Transparency of the process and meticulous chain of custody of the ballots are fundamental to ensuring democracy works.**

**We look forward to Ms. Kat Gayle being allowed to inspect the ballot return envelopes and getting answers to the numerous problems. We recommend the City is no longer allowed to run elections, and El Paso County manages them.**

**Integrity Matters – John Pitchford, Dana Dugan, Scott Hiller, and Kat Gayle**



<https://www.integritymatterscos.org/>

<https://www.integritymatterscos.org/update-4-4-2023-election>

As a reminder, my office did not run the City of Colorado Springs' 2023 General Municipal Election or its 2023 Mayoral Runoff Election; rather, my office permitted the City Clerk's Office to utilize several ballot-drop boxes and ballot box cameras for those locations.

The El Paso County Clerk and Recorder's Office must comply with C.R.S. Title 1 and Colorado Secretary of State Rules. This is often referred to as the "Uniform Election Code of 1992". The City of Colorado Springs is a home-rule Municipality and as such, primarily is governed by its City Charter and City Ordinances. Because it is a home-rule Municipality, the way by which the City conducts its elections would be controlled by those two sources of authority, along with potentially applicable portions of C.R.S. Title 31. Because these are two different "worlds", my office has little to no interaction with home-rule Municipal elections.

With that said, it is unclear to me if the Colorado Secretary of State's Office or the State Attorney General would have authority to hear complaints solely related to a home-rule municipal election. I can tell you that my office certainly does not have the jurisdiction to do so.

As the Chief Election Official for El Paso County, I must forward these complaints to the proper authority, which I believe first and foremost to be with the City of Colorado Springs itself. If concerns relate to possible violations of criminal law, my belief is that the Fourth Judicial District Attorney's Office would be the office in which to concerns should be lodged.


To that end, my office is here to assist in any capacity you deem necessary.


Respectfully,


Steve Schleiker, Clerk and Recorder  
El Paso County


# Steve Schleiker


El Paso County Clerk & Recorder

 719-502-1534

 719-520-7306

 [Steveschleiker@elpasoco.com](mailto:Steveschleiker@elpasoco.com)

 <https://clerkandrecorderelpasoco.com>

 1675 W. Garden of the Gods Rd., Ste. 2201  
Colorado Springs, CO. 80907

Please tell us how we are doing.