

# **2001 Election Flaws**

Boulder County  
December 11, 2001

## **PRELIMINARY REPORT**

Prepared For: Donetta Davidson, Secretary of State, Colorado

Prepared By: Citizens for Accurate Mail Ballot Election Results

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DATE: December 11, 2001

TO: Donetta Davidson, Secretary of State

CC: Charlotte Houston, Sheila Horton, Bob Greenlee, Dave Sanderson

RE: Kolwicz to Davidson, November 8, 2001 – Objection to Certification of Boulder County Election Results

Davidson to Kolwicz, email, November 16, 2001 – Meeting in Boulder County

Donetta,

We are happy to meet with you and others on December 14<sup>th</sup> at 9:00 AM at the office of the Boulder County Clerk to specifically discuss the results of the Boulder County election. We are providing you, herein, in writing by the evening of December 11, 2001, this report, 2001 Election Flaws, which documents three of the major concerns we have regarding this election. It is your decision, not ours, as to whether the concerns that we present are relevant to certification. Non-certification of this election is not our objective. We wish only to obtain for the record the Secretary of State's written concurrence that the problems that we have documented are in fact true statements.

As you know, we have been working on the Colorado election process for some time now. We are concerned that the lack of documented facts has deprived officials and the public of the information needed to make a realistic assessment of the Colorado election process. This year we selected Boulder County as a live laboratory with the objective of capturing as much relevant data as possible about a Colorado election. We have no reason to believe that what we have found in Boulder County is any different than what happens in other Colorado counties, since Boulder County's election procedure is not unlike other county election procedures approved by the Secretary of State.

Once we have established a documented and agreed to set of facts about the election in Boulder County, we can begin to educate public officials and the public as to the reality of the Colorado election process. It is our belief that this audience will be very receptive to major improvements in the system.

We are deeply troubled by the barriers to research that are being erected by the Secretary of State and the Boulder County Clerk. To claim privilege for the data files used to conduct this election seems curious. Other than a means of preventing computerized analysis of voting transaction details, there is no reason that we can conceive of that would cause the Secretary and the Clerk to withhold from us a copy of the requested computer files. We will argue this point separately. Suffice it to say that the withholding of copies of the requested computer files prevents us from performing a more thorough and accurate analysis of this election.

In your email message you describe the “Tray Summary Report” as the “Poll Book.” Surely the Secretary of State knows that the hundreds of printed tray summary reports are not a poll book and are not a replacement for a poll book. In simplest fact, these reports exclude the names of more than one-hundred thousand eligible Boulder County electors. Further, the tray summary reports contain a printout of only a small fraction of the information contained in the requested data files.

Your rules for this meeting preclude us from addressing the larger and more substantial issues of Colorado Election Systems that must be addressed. We will take these issues up in a separate venue.

We have written this report in a style that we hope will enable the Secretary of State and the Boulder County Clerk to verify each fact in our report and concur with or take exception to each fact. We have not attempted to describe the potential consequences associated with each fact, however we know that in at least some circumstances the consequences could be significant.

You have required us to limit our report to three issues. The three issues that we have chosen to address are as follows:

1. The reports produced by the election are not accurate.
2. All voters/ballots were not treated equally, so the election was not fair.
3. The systems and procedures used have not produced the auditable result needed to prove that the results are correct.

The data that we used to respond to your request for a discussion of the results of the election are confined to the eight documents listed below and communications that we have had with the Secretary and the Clerk. In our analysis of accuracy we have proceeded despite the lack of copies of the computer files. We have added no data of our own. Our report is based entirely on data collected and provided by the Clerk.

## DESCRIPTIONS & BACKGROUND

CAMBER was permitted to obtain copies of the following reports:

1. Tray (Scanner and Endorser Summary) Report – 11/09/01 -- 7 pages
2. Number of Ballots Accepted and Seal Log -- 10/27/01 thru 11/07/01 – 83 sheets
3. Number of Ballots Counted and Re-seal Log – 10/27/01 thru 11/07/01 – 32 sheets
4. Central Count Status Report – 11/09/01 (dated Nov 9, 3:03:39 PM) – 8 pages
5. Annotations on Central Count Status Report – 11/16/01 (dated Nov 8, 2001 11:01:07 AM) – 8 pages. (These annotations served as the index to correlate tray numbers and the counter batch numbers.)
6. Incoming Ballots Processed Summary – received 11/08/01 -- dated November 07, 2001 – 2 pages
7. Mail Ballot Statement of Ballots – received 11/8/01 (undated) – 1 page
8. Final Results 11/07/01 05:51:34

CAMBER was not allowed to obtain copies of the computer files including the file that served as the pollbook for the election. Since thousands of return-verification envelopes and ballots were rejected and many of these were recycled through the system, without copies of the election files it is not practical, perhaps not even possible, to perform the analysis-by-transaction that is required to prove accuracy. As a result, the analysis documented in this report is incomplete. However, it is sufficiently complete to prove inaccuracy.

The Tray (Scanner and Endorser Summary) Report is produced by the VoteRemote system. Most incoming return-verification envelopes are processed by this system which reads the barcode, uses the barcode to lookup the voter-ID in the electronic pollbook, creates a digital image of the area of the envelope that contains the handwritten signature and handwritten birth date, records the scanned image on disk and associates the image with the voter-ID, prints an endorsement on the envelope assigning a sequence number and time stamp, and identifies ballots that are submitted for voters that have had more than one ballot issued. Many envelopes are not readable by the scanner, and these envelopes are manually removed from the tray. Sometimes an envelope is read many times, inflating the count of the number of envelopes scanned. Some envelopes are never scanned. These envelopes deflate the count of the number of envelopes scanned. During operation of this equipment, a person may delete an already scanned tray from the computer. (By using computer software that we shall provide to examine each transaction for each voter-ID, it is possible to track specific envelopes and more accurately assess the accuracy of the numbers produced in the Tray (Scanner and Endorser Summary) Report.)

The Number of Ballots Accepted and Seal Log is prepared by the Election Judges after the Judges have verified that each envelope in a tray was not submitted by anybody other than the eligible voter, the Judge has opened the envelope and determined that the ballot inside of the envelope complies with the law and the approved election procedures, including that the ballot is the same ballot as that sent to the voter. Thereafter, the stub is removed from the ballot, the number of ballots to be counted and tray number are written onto a batch ticket, and onto the Number of Ballots Accepted and Seal Log, and the ballots from the tray are placed as a batch into a ballot box. When sufficient ballot batches have been placed into the ballot box, a use-once seal is affixed, and the Number of Ballots Accepted and Seal Log is updated to show for each tray number included in the box, the number of the seal that is used to secure the box.

The Number of Ballots Counted and Re-seal Log is prepared by the Counting Judge before the judge opens the sealed ballot box. The Judge records the number of the seal that is securing the unopened box. The judge also records the originating tray numbers of the ballot sets that are included in the box. After counting, the Judge updates the Log to reflect the number of ballots accepted and rejected by the counting machine, and the number of the seal used to re-seal the ballot box.

The Central Count Status Report is prepared by the counting computer and summarizes for each batch the number of ballots accepted and counted. A person may delete a previously recorded batch from the computer.

Because certain trays were assigned identifiers that did not follow the standard assignment established for the election, we have assigned unique identifiers to these trays as follows:

<b>CAMBER Identifier</b>	<b>Clerk's Identifier</b>
213	213 - Manual tray. Unable to scan.
264	264 - Manual tray. Unable to scan.
290	290 - Manual tray. Unable to scan.
303	303 - Manual tray. Unable to scan.
304	304 - Manual tray. Not Scan-able.
305	305 - Manual tray. Unable to scan.
306	306 - Manual tray. Unable to scan.
309	309 - Manual tray. Unable to scan.
4001	999A - Already scanned and rejected by SigVerify or Open judges. Accepted by staff.
5001	999B - Already scanned and rejected by SigVerify or Open judges. Accepted by staff.
5002	999B - Already scanned and rejected by SigVerify or Open judges. Accepted by staff.
5003	999B - Already scanned and rejected by SigVerify or Open judges. Accepted by staff.
7001	999A
7003	999B
6001	Dupe#1 - Already scanned and pulled from previous tray. Duplicated by Dupe Board.
6002	Dupe#2 - Already scanned and pulled from previous tray. Duplicated by Dupe Board.
6003	Dupe#3 - Already scanned and pulled from previous tray. Duplicated by Dupe Board.
6004	Dupe#4 - Already scanned and pulled from previous tray. Duplicated by Dupe Board.
6005	Dupe#5 - Already scanned and pulled from previous tray. Duplicated by Dupe Board.
302	302 - Multiples not scannable.
8001	Multiples - Already scanned. Were deducted. Original needs to be added back.
8002	Multiples - Already scanned. Were deducted. Original needs to be added back.

The following sections contain illustrations of where we have discovered the results to be not accurate, the election not fair, and the election results not auditable.

## 1. THE REPORTS ARE NOT ACCURATE.

On the Tray (Scanner and Endorser Summary) Report, used to control the return-verification envelopes received by the Clerk, the following tray numbers are missing: 309, 4001, 5123 (5001?), 5002, 5003, 6001, 6002, 6003, 6004, 6005, 7001, 7002, 8001, and 8002.

On the Tray (Scanner and Endorser Summary) Report, the following tray numbers have no count 213, 264, 290, 303, 304, 305, and 306.

On the Number of Ballots Accepted and Seal Log, which secures the accepted ballots which are sent to the counting computer, the following tray numbers are not recorded: 34, 74, 79, 85, 107, and 182. In addition, the following trays that are not assigned conventional tray numbers are also not recorded on this seal log: 4001, 5002, 5003, 6001, 6002, 6003, 6004, and 6005. Although they do not appear on this seal log, all of the trays mentioned above in this paragraph, with the exception of tray 182, are listed in the re-seal log as though they had been sealed at this step.

On the Number of Ballots Accepted and Seal Log, the following tray numbers are recorded more than once: 94, 148, 172, 177, 183, 188, 202, 204, 207, 211, 231, 223, and 302.

On the Number of Ballots Counted and Re-seal Log, which secures the ballots which have been counted by the counting computer, the following tray numbers are not recorded: 2, 182, and 223.

On the Number of Ballots Counted and Re-seal Log, the following tray numbers are recorded more than once: 88, 148, 233, and 302.

On the index provided by the Clerk, which associates each tray with a counting batch, tray number 16 is not recorded.

On the index provided by the Clerk, the following tray numbers are recorded more than once: 15, and 302.

When comparing the Tray (Scanner and Endorser Summary) Report to the Central Count Status Report, the following trays show more ballots in the tray after being counted than there were in the tray before they were counted: 7, 11, 14, 17, 18, 19, 20, 22, 24, 25, 27, 28, 29, 32, 33, 36, 37, 38, 39, 40, 41, 42, 43, 46, 47, and 199. This is in addition to the ballots not scanned in tray numbers 213, 264, 290, 303, 304, 305, 306, 309, and 302 where the number of ballots scanned is zero. Also, without additional details regarding rejections, it is not possible to ascertain if the significantly smaller number of ballots counted than scanned for several trays is explainable.

When comparing the Number of Ballots Accepted and Seal Log before counting and the Number of Ballots Counted and Re-seal Log after counting, the following trays show more ballots in the tray after being counted than there were in the tray before they were

counted: 14, 15, 17, 31, 36, 53, 58, 63, 72, 99, 117, 121, 124, 156, 162, 179, 207, 217, 243, 259, 265, and 292.

After removing the ballots from the return-verification envelope, accepting a ballot, and removing its stub, the ballot is placed into a ballot box. When the ballot box is opened for counting, the seal number is verified to insure no tampering. By comparing the seal number of each tray on the Number of Ballots Accepted and Seal Log with the seal number of the corresponding tray on the Number of Ballots Counted and Re-seal Log differences can be seen. Tray 14 was assigned seal number 33479 when it was sent to be counted, and arrived at the counting station with seal number 30982. Additional trays with seal numbers that are different are: 32, 40, 55, 58, 82, 83, and 150. The two trays with duplicate tray number 148 appear in both of the seal logs. The first tray numbered 148 can be seen in both seal logs using seal number 30087. The second tray numbered 148 can be seen in both seal logs using seal number 30798. The following tray numbers appear with seals in the seal log but do not appear in the re-seal log: 2, 223, 7001, and 7003. The following tray numbers appear in the re-seal log, but not in the seal log: 34, 74, 79, 85, 107, 233??., 4001, 5002, 5003, 6001, 6002, 6003, 6004, and 6005.

On the Incoming Ballots Processed Summary, which was presented to the Canvass Board as documentary evidence, one can calculate the number of ballots accepted as 74,693, and the number rejected as 876, for a total of 75,569 ballots cast. The Central Count Status Report indicates that 75,944 ballots were counted. The number of ballots counted is 1,251 more than were reported as accepted on the Incoming Ballots Processed Summary. The “Total Ballots Rejected by County Clerk (wrong BD, Signature, mismatch etc.” on the Mail Ballot Statement of Ballots is 577, which is 299 fewer than the 876 reported as rejected on the Incoming Ballots Processed Summary (which itself may be low).

In addition, the number, 577, is misleading. Envelopes and ballots were rejected at various stages of the process more than 12,000 times. Only by reporting this gross number along with the eventual disposition of each of the rejected items can this published number fairly reflect what transpired. To understand the quality of the process one needs to understand the way that items from various sources were commingled and made almost impossible to track, and the root cause of each rejection. Envelopes that started the process in one tray may have reappeared in a different tray more than once.

The sum of the ballots accepted by the scanner, from the Tray (Scanner and Endorser Summary) Report, is 76,788. The Central Status Report documents 75,679 as the “Total Number of Ballot Envelopes Scanned by Vote Remote.” This is a difference of 1,109 additional ballot envelopes successfully scanned. (Actually Vote Remote scanned many more envelopes, but rejected more than 6,000.)

In the Central Status Report there are 5,069 ballots included in the 75,944 “Total Number of Ballots Counted by AccuVote” which originate in trays that were not successfully scanned. The tray numbers containing these 5,069 ballots are: 213, 264, 290, 302, 303, 304, 305, 306, 309, 4001, 5001, 5002, 5003, 6001, 6002, 6003, 6004, 6005, 8001, and 8002. This number is 2,274 larger than the 2,795 reported on the Mail Ballot Statement

of Ballots as the “Total Number of Ballots Manually entered by Global into VoteRemote.”

The Final Results report indicates that there are 166,480 “Registered voters”. This is not accurate for the following reasons: (1) this number was not the number of eligible voters in Boulder County, and (2) the number appears to be an estimate of the number of Active voters but reflects neither all of the eligible or all of the Active voters on Election Day. Since each specific races report a number of registered voters in their jurisdiction each race shares these same two problems. As a consequence, all of the turnout percentages are not correct for the actual number of registered voters.

The sum of the Initial and Supplemental mailings on the Mail Ballot Statement of Ballots is 166,235. After excluding the replacement/absentee/inactive mailings, this is 245 more ballots mailed than the number of registered voters reported in the Final Report.

The 20,409 “Total Mail Ballots Returned as Undeliverable by USPS” as reported in the Mail Ballot Statement of Ballots is questionable. During the election, the Clerk released numbers to the press which were higher. At least one of these reports was more than 22,000. The undeliverable envelopes were not scanned as specified in the Clerk’s Procedures as approved by the Secretary of State, and to our knowledge were not accurately counted by election judges. Also, ballots were removed from the trays of undeliverable ballot packets; this makes unknowable the count of ballot packets returned as undeliverable. It also has compromised future efforts to understand all of the reasons that the packets were not delivered and where they went.

The title, “Total Number of Ballots Not Returned by Voter or USPS as of 11/6/2001”, is a misrepresentation of this calculated number. It does not include a subtraction for the 577 “Total Ballots Rejected by County Clerk” and it does not include a subtraction for the ballots that were issued but subsequently cancelled. It infers that the ballots were delivered to the correct voter or returned by USPS and makes no allowance for ballot packets that might have been lost or stolen after being voted by the voter.

The closing paragraph of the Mail Ballot Statement of Ballots certifies that, “the 75,944 ballots counted for this election does not exceed the number of ballots issued for this election...” whereas C.R.S. 1-10-101.5 states, “... confirm that the number of ballots counted in that election does not exceed the number of ballots cast in that election.” The number “issued” serves as no control, and is quite different from the number “cast”.

## 2. THE ELECTION WAS NOT FAIR

Throughout the election there were numerous circumventions, overrides, and violations of election law and approved procedures. Aside from the fact that this is inherently lawless, voters who voted early or late in the voting period were not treated the same as each other, or the same as voters who voted in the middle of the voting period.

Despite C.R.S. 1-7.5-107 some voters did not have to follow the law which states, “If an eligible elector returns the ballot by mail, the elector must provide postage.” Some voters

who relied upon the Clerk's public announcement that she would pay for postage had their ballots rejected by USPS. These voters were deprived of their vote. See Mrs. B. Hartman, and Elsie Goossen.

Some Active Voters did not receive their ballot by mail. See Michael Hamann.

Some Active Voters were mailed the incorrect ballot style. See Anna Janis.

Some Active voters did not receive their ballot. See Lori Bernstein.

At least one voter objected to submitting what they felt was a non-secret ballot. They came to the County with their voted ballot in hand and asked to drop their secret ballot into the ballot box without a return-verification envelope. The voter was refused, and ripped up the ballot. See Gene Parker.

Extraneous ballots were mailed to 18,263 addresses where the Active voter on file had already recorded a change of address with the Postal Service. Although some of these ballots were returned by USPS as Undeliverable, not all were. See Susan M. and Kyle K. Courson.

Ballots were mailed to deceased persons. See H. Eileen King.

Also, many ballots were delivered and made available for voter fraud by depositing the unsupervised ballots at mail rooms in group living facilities. See 855 Broadway -- Thomas L. Kim, Tiana L. Melton, Travis R. Groth, Timothy G. Spellman, and Gary M. Skyrme.

Secretary of State Procedure 10.12.5 says, "*The return verification envelopes which are defective shall be placed in a secure container and retained. The ballots are not to be removed from the defective envelopes.*" Despite this official procedure the Clerk contacted some of the voters who had submitted ballots that were rejected by the judges. These voters were offered the opportunity to perfect their ballot. Not all voters with identical circumstances were given the same opportunity – one class of which is voters who voted late on Election Day. See Lisa M Shafer.

The Clerk has an explicit procedure for "Opening of Ballot Envelopes – Preparation of Ballots for Tabulation". Judges discovered, by comparing "the ballot stub number on each ballot with the stub number on the envelope", that an incorrect "ballot has been returned in that envelope". Despite the approved procedure, many but not necessarily all of such ballots were eventually accepted by staff.

The number of ballots counted that fall under the previous two paragraphs was reported as 1,481 ballots counted.

Despite precise statutory requirements for handling of replacement ballots, the Clerk and the Secretary of State opened ballots before the close of voting, and as a result made it impossible to follow C.R.S. 1-7.5-107(6) and Secretary of State procedure 10.13.

### 3. THE ELECTION RESULTS ARE NOT AUDITABLE

An audit is a positive tool that can be used to prove that results can be trusted.

The Clerk did not produce the audit trail needed to prove that the results of this election are accurate. Without an audit trail it is not possible to perform standard problem determination and analysis which is required to improve the election process.

Thousands and thousands of return-verification envelopes and ballots were recycled through the process, some more than once. There is no transaction history to show what happened to each item at each stage -- who or what rejected or accepted the item at each stage, and who or what allowed the item to be included in the count or permanently rejected from the count.

There is no log of the software problems that were discovered and how each was dealt with. For example:

- Watchers observed that when a return-verification envelope's bar-code was interpreted incorrectly by the scanner program, the ballot was assigned to the wrong voter, see Carol F Sheehy and Donald J Robinson.
- Watchers observed that an entire group of voters were assigned the wrong scanned-image block, see John B Adams.
- Many return-verification envelopes were entered by hand, see William Woolman.
- Many ballots were authorized using a CICS screen rather than the SigVer Authorization program, see trays 213, 264, 230, 303, 304, 305, 306, and 309.

When a voter's ballot was rejected after the SigVer step, watchers saw no attempt by the Judges to update the voter's entry in the electronic pollbook.

Software modules were changed during the election, see OCR.DLL program. Also see a problem described as a "Microsoft software problem with the date 11-01-01. And see "INVALID FLOATING POINT OPERATION" error. And see scanner problem with multiple issued ballots. There is no log of these problems and any changes. Also, there were no tests run to insure that the changes did not compromise the records kept and the results produced by the system. Software professionals have learned that when one changes software, transactions processed before the change may produce different results after the change.

The scanner software permits a person to delete a set of transactions from one tray and replace them with a set of transactions from the same or a different tray. There appears to be no record of these activities. The counting software permits a person to delete a batch of counted ballots. There is no linkage to batches or ballot boxes. There appears to be no record of these activities.

The System Certification Certificate is for a version of the Accu Vote software that is different than the version displayed by the system used for the election. The Vote Remote software may have not been certified.

Some of the data needed to perform an audit were not recorded. For example, in the Clerk's own procedures for the election, it is stated that:

- *The return of the ballots will be recorded using Global Elections System's Vote Remote equipment. Vote Remote will, by category, create an electronic file of the ballots that will code the individual voter's file that their voted ballot was received or the ballot mailed to the voter was returned unvoted. The daily file will be run against the voter file each night to update the ballot status of voters.*

Also,

- *VoteRemote will also scan unvoted ballots that have been returned by the Postal Service and a listing of the returned unvoted ballots will be generated.*

Such electronic files were not created.

Test decks, approved by the representatives of the jurisdictions, were modified by the Clerk after they were approved.

## SUMMARY

This report has demonstrated the following:

1. The reports produced by the election are not accurate.
2. All voters/ballots were not treated equally, so the election was not fair.
3. The systems and procedures used have not produced the auditable result needed to prove that the results are correct.

It is our hope that the Secretary of State will confirm in writing that these three statements are true. Once there is a better understanding of what a Colorado election is really like, we can begin the process of educating public officials and the public, and of working to improve the Colorado election process.

We look forward to meeting with you on Friday the 14<sup>th</sup> at 9:00 AM.

Sincerely,

Al Kolwicz