

**AMERICAN CIVIL LIBERTIES UNION OF COLORADO**

MARK SILVERSTEIN, LEGAL DIRECTOR

March 11, 2002

Wellington E. Webb, Mayor  
City and County of Denver  
1437 Bannock Street, Suite 350  
Denver, Colorado 80202  
By facsimile to 720-865-8791 and United States Mail

Dear Mayor Webb:

The American Civil Liberties Union Foundation of Colorado (ACLU) has obtained documents that demonstrate that the Denver Police Department is monitoring and recording the peaceful protest activities of Denver-area residents and keeping files on the expressive activities of law-abiding advocacy organizations.

These documents also demonstrate that the Denver Police Department has inappropriately smeared the reputations of peaceful advocates of nonviolent social change by falsely labeling their organizations as "criminal extremist."

Although the ACLU has obtained only a small sample of the police files, the few pages I have seen provide an alarming glimpse of the kinds of information the Denver Police Department is recording and the kinds of peaceful protest activity it is monitoring inappropriately. In files that are marked as "permanent," the Denver Police Department has recorded the following kinds of information about specific individuals:

- o membership in the American Friends Service Committee, a Quaker organization dedicated to nonviolent social change;
- o organizing and speaking at events sponsored by Amnesty International;
- o attendance in 2000 at demonstrations sponsored by the Justice for Mena Committee, which sought to hold Denver police accountable for the killing of Ismael Mena in a botched no-knock raid in 1999;
- o membership in End the Politics of Cruelty, a Denver human rights group that focuses on issues of police accountability;
- o participation in protests against the International Monetary Fund and the World Bank in Washington, D.C.;
- o membership or association with the Chiapas Coalition, a Denver group that supports the rights of indigenous persons in Mexico's poorest state;
- o the purported opinion of a member of the Chiapas Coalition that "global financial policies are responsible for the uprisings in Chiapas, Mexico";
- o being "seen" at a demonstration in 2000 protesting the celebration of Columbus Day;
- o license numbers and descriptions of vehicles used by individuals identified as participants in peaceful protest activities;
- o home addresses and personal descriptions of individuals engaged in lawful expressive activity;
- o the address of a private residence that an individual reportedly "frequents";

The files reveal that in May, 2000, the Denver Police Department obtained what it called a "roster" of the Direct Action Network (DAN) in Denver. Although some individuals are listed on this "roster" only by their

first name, the Denver Police Department nevertheless attempted to draw inferences about their full names. Thus, an entry in one person's file states that he is "believed to be" the individual listed only by first name "as contact for protests sponsored by Direct Action Network."

The file provides no information that would explain why police would go to so much trouble to determine the identity of DAN participants. Indeed, according to the police description, the Direct Action Network is "an amalgam of protest groups banded together to ensure large numbers of protesters at local demonstrations." This description of DAN's purpose is entirely consistent with the First Amendment. It suggests nothing criminal or sinister.

The Denver Police Department has branded several local organizations with the label "criminal extremist," including the American Friends Service Committee; the Chiapas Coalition, and End the Politics of Cruelty. Nothing in the pages the ACLU has obtained provides any support for labeling any of these groups as either extremist or criminal. The members of these organizations vigorously deny the accuracy of these labels.

I have enclosed four of the pages that the ACLU has obtained. Because this letter may become a public record, I have redacted the names of individuals who have not consented to have this document made public.

The Colorado Constitution and the Bill of Rights guarantee the right to petition the government, the right of political expression, and the right to associate in groups for the purpose of communicating a political message.

Accordingly, Denver residents should feel free to join a peaceful protest without fear that their names will wind up in police files. They should feel to engage in nonviolent dissent without fear of being branded as "criminals" or "extremists" in files that police have marked as permanent.

Denver residents cannot feel free, however, when police maintain the kinds of files described in this letter. This program of surveillance threatens to chill and deter individuals from speaking out, even though it is their constitutional right to do so.

Accordingly, I ask that you take the following actions:

1. Order an immediate stop to this surveillance and monitoring of peaceful protest activity and prohibit police from keeping files on the views and expressive activities of peaceful activist organizations.
2. Prohibit the Denver police from sharing the existing files with any other law enforcement agency.
3. Order the Denver Police Department to make a public accounting of the scope and nature of these files. Such an accounting should, at a minimum, answer questions such as the following:
  - How many groups and organizations are listed in the files?
  - Which groups are listed? Which groups are branded as "criminal extremist"?
  - How does the Denver Police Department define "criminal extremist"?
  - What are the criteria for listing or opening a file on an organization?
  - How many individuals are listed in the files?
  - What are the criteria for listing or opening a file on an individual?
  - To whom has the Denver Police Department disseminated information from the files?
4. For each individual whose name appears in the file, notify that individual of the existence of the file and provide an opportunity for that individual to review the information;
5. Order that the files be preserved, because they are potential evidence in any lawsuits that might be brought to challenge this monitoring of peaceful protest activity.


I would appreciate receiving your written response.

Sincerely,

Mark Silverstein,  
Legal Director, ACLU of Colorado

cc: Gerald Whitman, Chief of Police (fax to 720-913-7029)  
Ari Zavaras, Manager, Department of Safety (fax to 720-913-7028)

enclosures

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