Todd Risberg/Alex Lowe
DA/6th Judicial District
449 San Juan St.,
P.O. Box 148
Pagosa Springs, Colorado 81147

Cert Mail # 7011-0470-0000-1763-4588

GRAND JURY INVESTIGATION DEMAND, & NOTICE OF INTENT TO SUE

September 5, 2014

Dear Mr. Risberg and Mr. Lowe,

We are writing to bring certain activities to attention of you both, and to request access to the Grand Jury to present our documentation and facts on unconstitutional and criminal activities taking place in Archuleta County, and specifically, the BOCC (Michael Whiting, Clifford Lucero, Steve Wadley), the County Clerk, June Madrid, and County Attorney, Todd Starr (herein Defendants), and for an investigation into said activities.

A clear pattern of collusion and depravation of rights under color of law is taking place, and you are our public servant having taken an Oath of Office to uphold the Constitutions and Statutes of Colorado. This is the People's right to access the Grand Jury, per the following;

In the Supreme Court case of United States v. Williams, 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352(1992), Justice Antonin Scalia, writing for the majority, confirmed that the American grand jury is neither part of the judicial, executive nor legislative branches of government, but instead belongs to the people. It is, in effect, a fourth branch of government "governed" and administered to directly by and on behalf of the American people, and its authority emanates from the Bill of Rights.

Justice Antonin Scalia went on to say the following: (in Williams, Supra)

> "The grand jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three Articles. It is a constitutional fixture in its own right." United States v. Chanen, 549 F.2d 1306, 1312 (CA9 1977) (quoting Nixon v. Sirica, 159 U.S.App.D.C. 58, 70, n. 54,487 F.2d 700, 712, n. 54 (1973)), cert. denied, 434U.S. 825, 98 S.Ct. 72, 54L.Ed.2d 83 (1977).; United States v. John H. Williams, Jr.; 112 S.Ct. 1735; 504 U.S. 36; 118

L.Ed.2d352; No. 90-1972.

"In fact the whole theory of its function is that it belongs to no branch of the institutional government, serving as a kind of buffer or referee between the Government and the people." Stirone v. United States, 361 U.S. 212, 218, 80 S.Ct. 270, 273, 4 L.Ed.2d 252 (1960); Hale v. Henkel, 201 U.S. 43, 61, 26 S.Ct. 370, 373, 50 L.Ed. 652 (1906); United States v. John H. Williams, Jr.; 112 S.Ct. 1735; 504 U.S. 36; 118 L.E d.2d 352; No. 90-1972.

"The grand jury requires no authorization from its constituting court to initiate an investigation," See Hale, supra, 201 U.S., at 59-60, 65, 26 S.Ct., at 373, 375,).; United States v. John H. Williams, Jr.; 112 S.Ct. 1735; 50 4 U.S. 36; 118 L.Ed.2d 352; No. 90-1972.

More case cites:

"The grand jury's functional independence from the judicial branch is evident both in the scope of its power to investigate criminal wrongdoing, and in the manner in which that power is exercised. "Unlike [a] [c]ourt, whose jurisdiction is predicated upon a specific case or controversy, the grand jury 'can investigate merely on suspicion that the law is being violated, or even because it wants assurance that it is not.'" United States v. R. Enterprises, 498 U.S. ----, ---- , 111 S.Ct. 722, 726, 112 L.Ed. 2d 795 (1991) (quoting United States v. Morton Salt Co., 338 U.S. 632, 642-643, 70 S.Ct. 357, 364, 94 L.Ed. 401 (1950)). Blair v. United States, 250 U.S. 273, 282, 39 S.Ct. 468, 471, 63 L.Ed. 979 (1919).; United States v. John H. Williams, Jr.; 11 2 S.Ct. 1735; 504 U.S. 36; 118 L.Ed.2d 352; No. 90-1972.

"The power of grand juries to inquire into the wilful misconduct in office of public officers, and to find indictments or to direct the filing of information's in connection with such inquiries, shall never be suspended or impaired by law." New York Constitution Article 1 § 6.

"The grand jury is an institution separate from the courts, over whose functioning the courts do not preside, we think it clear that, as a general matter at least, no such supervisory judicial authority exists " - 1990, U.S v. Williams.

This is saying, in effect, that the People have direct access to the Grand Jury apart from any controlling branch of government, including the Judicial branch, and that it is our right, not a privilege handed down by government.

Attached herein is the preliminary evidence we present to you and we are doing the

courtesy of including you in this process since this is what you are used to. We wish to work WITH you in establishing the lawful right of the People, especially when their rights are being deprived, and criminal actions are taking place against us.

We are presenting just two complaints which the Grand Jury must be apprised of, without tampering, manipulation or other possible distractions. Investigations into the Grand Jury and process for the 6th Judicial District are unfolding presently.

1. The People of Archuleta County chose to bring 11 ballot initiatives to the Archuleta County Board of County Commissioners (herein BOCC) for their placing on the ballot and for County citizens to vote on. Having researched the laws and authority to do this, the required number of signatures were collected, within the allotted time frame, and presented to the County Clerk and recorder, June Madrid, (herein Madrid), which she accepted. In the meantime, we presented the BOCC with the actual Constitutional and Colorado Statutory laws authorizing said ballot initiatives.

In addition, we previously requested the BOCC to place the ballot initiatives on the ballot which, by statutory laws, they could do, and save the People from the time and expense of collecting signatures, and simply allow the People to decide whether they wanted to support the initiatives, or not. The BOCC unanimously resisted doing so, so the initiative signatures were the People's only recourse.

Having performed all that was lawfully necessary, the BOCC continued to resist following Colorado and Constitutional laws, with counsel from County Attorney Todd Starr's (herein Starr) claiming that we had no authority to be petitioning our government, citing Dellinger,[1] a 2000 Appeals Court case which allegedly proved we had no authority to be petitioning the "County" government.

The following is evidence presented to the BOCC, Starr and Madrid repeatedly, at BOCC meetings, via documents and oral discussion, emails, etc.

Defendants have, over the course of 8+ months willfully and repeatedly ignored their lawful duty, their Oath of Office to uphold the Colorado Constitution and laws, and ignored our constitutional rights under law, even after NOTICE and repeated requests to comply. Defendants suppressed those rights, and colluded, willfully and wantonly, to subvert said rights and the laws of Colorado in denying the ballot initiative process to the 600+ ballot signatories, and all the People.

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[1] *Daniel Dellinger v. Board of County Commissioners for the County of Teller, Colorado Court of Appeals, Division V. September 14, 2000.*

The Defendants could have easily complied rather than take the adversarial route against our rights, especially given the evidence provided that Defendants were, and are, in the wrong.

FACTS OF THE CASE
What DOES the Colorado Constitution and laws actually say?

The presumption being made by the Defendants is that people residing in cities, towns and municipalities have the right to petition their "local" governments, but not to petition the County governments. Just pausing to think about that for a brief moment should bring realization that this means that the population of Archuleta County outside those select areas are being denied their right to petition THEIR "local" government (the BOCC... the ONLY one they have - See discussion below on this) under the 1st Amendment to the U.S. Constitution:

> "Congress shall make no law respecting... the right of the people... to petition the Government for a redress of grievances."

Congress has no right to make such laws to deprive the People of this right to petition, which, in law, goes far beyond just redressing grievances. Does the State government or County government have a right to trump this right or prevent this right? No, and no evidence exists to suggest this is the case, and ample evidence exists, shown herein, to prove the People's right to the initiative process at the County level does, in fact and law, exist.

In further research, it now seems clear that not only people outside local government areas are being deprived of the right to petition the County governments, but it appears that local city, town and municipality residents are being told that they cannot petition their "County" governments, either, but ONLY their "local" governments. We disagree with this completely, per the following;

> "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness....when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government..." Declaration of

Independence (Emphasis added throughout).

The above is clear and concise, and doesn't leave any ambiguity as to the power the People have under the Constitution. For local people to have the power of initiatives for their smaller government bodies, and yet the total People are deprived of any right of initiative over the larger Countywide government, is untenable. This leaves a significant portion of the People outside local areas without a voice in the only government they have, and also prevents local area people from the same voice in County government.

Colo. Const. Art. II, Section 1, Vestment of political powers;

> "All political power is vested in and derived from the people; all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole." (Emphasis added)

Any governments that claims this is not true is not a government "of right" and is a defacto governing body usurping powers not granted to it, and has become a tyrannical, unlawful entity.

> Art. II, SEC. 2. <u>That the people of this State have the sole and exclusive right</u> of governing themselves, as a free, sovereign and independent State; and <u>to alter</u> and abolish their constitution and <u>form of government</u> whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the Constitution of the United States. (Emphasis added)

> "ALL GOVERNMENTAL DEPARTMENTS MUST ANSWER TO THE PEOPLE. It is well that all departments give pause, that they may not offend. All must answer to the people, in and from whom, as specifically set forth in this section, all political power is invested and derived." Hudson v. Annear, 101 Colo. 551, 75 P.2d 587 (1938). (Emphasis added)

> In Medina v. People, 154 Colo. 4, 387 P.2d 733 (1963), cert. denied, 379 U.S. 848, 85 S. Ct. 88, 13 L. Ed. 2d 52 (1964), the Colorado supreme court held that the bill of rights is self-executing; the rights therein recognized or established by the constitution do not depend upon legislative action in order to become operative.

This means ALL people have the right to petition their government and to make alterations in said government at will, which the County certainly is part of. No government level can be excluded from the People's right to petition or to create initiatives, and certainly not at the larger County legislative level.

CONSTITUTION OF THE STATE OF COLORADO
Article V, Section 1.
General assembly - initiative and referendum.

(1) The legislative power of the state shall be vested in the general assembly consisting of a senate and house of representatives, both to be elected by the people, but the people reserve to themselves the power to propose laws and amendments to the constitution and to enact or reject the same at the polls independent of the general assembly and also reserve power at their own option to approve or reject at the polls any act or item, section, or part of any act of the general assembly.

CONSTITUTION OF THE STATE OF COLORADO
ARTICLE V LEGISLATIVE DEPARTMENT
Colo. Const. Art. V, Section 25 (2013)

Section 25. SPECIAL LEGISLATION PROHIBITED

> The general assembly shall not pass local or special laws in any of the following enumerated cases... regulating county or township affairs... (Emphasis added)

Any laws established by the general assembly cannot interfere with County affairs, but only enhance them. This means the People of the Counties have the right to a voice in County affairs which the State cannot interfere with through any regulations.

TITLE 1. ELECTIONS
INITIATIVE AND REFERENDUM
ARTICLE 40. INITIATIVE AND REFERENDUM

C.R.S. 1-40-101 (2013)
1-40-101. Legislative declaration

> (1) The general assembly declares that it is not the intention of this article to limit or abridge in any manner the powers reserved to the people in the initiative and referendum, but rather to properly safeguard, protect, and preserve inviolate for them these modern instrumentalities of democratic government.

Are we to presume this intent is only limited to this article, and is not to also encompass all other articles or statutes with the same intent to not "limit or abridge" the same " initiative and referendum" powers "reserved" to the People?

Defendants are certainly claiming that our right to initiatives does not include the County government.

TITLE 30. GOVERNMENT - COUNTY
COUNTY POWERS AND FUNCTIONS
ARTICLE 11. COUNTY POWERS AND FUNCTIONS
PART 1. GENERAL PROVISIONS

C.R.S. 30-11-103.5. County petitions and referred measures

> The procedures for placing an issue or question on the ballot by a petition of the electors of a county that is pursuant to statute or the state constitution or that a board of county commissioners may refer to a vote of the electors pursuant to statute or the state constitution shall, to the extent no such procedures are prescribed by statute, charter, or the state constitution, follow as nearly as practicable the procedures for municipal initiatives and referred measures under part 1 of article 11 of title 31, C.R.S. The county clerk and recorder shall resolve any questions about the applicability of the procedures in part 1 of article 11 of title 31, C.R.S." (Emphasis added)

30-11-103.5 directly addresses "County" initiatives and measures, and clearly has a statutory construction for Counties to follow regarding said petitions. This was never directly addressed in Dellinger (cited by Starr), and leaves a void in a constitutional/law question which cannot be ignored.

How is 30-11-103.5 negated by the BOCC's or the Dellinger court's legal position? The Dellinger court cannot legislate, or eliminate, existing statutory law. This statute regarding the County must have SOME County purpose and meaning for the People as intended by the General Assembly. This clearly states that the "procedures" (something denied as existing by Starr) for "County" Petitions, can include "an issue," and "questions," (not just a Home Rule petition) and be placed there by the "electors of a County," (or the BOCC may refer it to the vote, (simplifying the whole process, and supporting the People's right to Petition), AND, are based, "as nearly as practicable," when no such procedures are prescribed by statute," on Title 31-11-104 "procedures," as follows;

C.R.S. 31-11-104

> (1) Any proposed ordinance may be submitted to the legislative body of any municipality[2] by filing written notice of the proposed ordinance with the

[2] Municipality. "A legally incorporated or duly authorized association of inhabitants of limited area for local governmental or other public purposes. Political subdivision or public agency

clerk (Note: Madrid approved these on May 30th, 2013) and, within one hundred eighty days after approval of the petition pursuant to section 31-11-106 (1), by filing a petition signed by at least five percent of the registered electors of the city or town on the date of such notice. (Note: Initiatives were turned in to Madrid, and accepted, on the 180th day (11-26-2013) to allow us to get as many signatures as possible.)

Such procedures were followed to the letter in bringing in the petitions to the County Clerk. C.R.S. 30-11-103.5 also clearly designates the County Clerk and Recorder as the one to determine issues related to 31-11-104, not the County attorney or BOCC. This also seems to have been subverted.

Authorities which further back up our position of the power of the WHOLE People to petition and create initiatives follows. (Please review annotations under Colo. Const. Art. V, Section 1 (2013) on http://www.lexisnexis.com/hottopics/Colorado/ website for further supportive cases, (Dellinger, notwithstanding), including, but not limited to, the following;

> "All power has been reserved by people through initiative and referendum." In re Legislative Reapportionment, 150 Colo. 380, 374 P.2d 66 (1962).
>
> "This section, as well as the statutes which implement it, must be liberally construed so as not to unduly limit or curtail the exercise of the initiative and referendum rights constitutionally reserved to the people." Colo. Project-Common Cause v. Anderson, 178 Colo. 1, 495 P.2d 220 (1972); Billings v. Buchanan, 192 Colo. 32, 555 P.2d 176 (1976).
>
> "The interpretative approach to the power of referendum gives broad effect to the reservation in the people and refrains from implying or incorporating restrictions not specified in the constitution, (U.S. 1st. Amendment and Colorado Constitution-LZ), or a charter for a reservation to the people should not be narrowly construed." City of Fort Collins v. Dooney, 178 Colo. 25, 496 P.2d 316 (1972).
>
> "The initiative and referendum provision is in all respects self-executing. It is not a mere framework, but contains the necessary detailed provisions for carrying into immediate effect the enjoyment of the rights therein established without legislative action." Yenter v. Baker, 126 Colo. 232, 248 P.2d 311 (1952). (Emphasis added)

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or instrumentality of a State. Bankruptcy Act, § 1 0 1 (29)." Blacks Law Dictionary. (Counties fall into this "political subdivision" category as well and cannot be excluded from the People).

"Legislative action" is NOT required to define or uphold a right already existing with the People. Rights are NOT legislated, only secured by legislation, but not ALL rights need to be "secured" by legislation to be a right to the People.

> "The initiative power reserved by the people is to be liberally construed to allow the greatest possible exercise of this valuable right." City of Glendale v. Buchanan, 195 Colo. 267, 578 P.2d 221 (1978); Committee For Better Health Care v. Meyer, 830 P.2d 884 (Colo. 1992). (Emphasis added)

It is clear that the bulk of the courts have upheld the People's right to petition, and have not limited this right, or if alleged to have done so in Dellinger, have done so unconstitutionally and in violation of the rights of the People. This natural right applies to ALL the People, and cannot be denied to local groups of the People from ANY government entity effecting them personally.

However, an obvious conflict has been created within the Dellinger court's rulings...

> "The list of affected governmental units does not include counties, and this court has not recognized any constitutional initiative powers reserved to the people over countywide legislation. Cf. People ex rel. Cheyenne Erosion Dist. v. Parker, 118 Colo. 13, 18-19, 192 P.2d 417, 420 (1948) (narrowly construing the scope of the initiative powers reserved by article V, section 1)."

First, the Dellinger, Supra court states that it "has not recognized any constitutional initiative powers "reserved" (See Article V, Section 1 below) to the people. Because the court claims to not have "recognized" (verbally acknowledged said right, or took notice of said legislated "reservation" of this existing right), does not diminish or negate those inherent rights belonging to the People.

Even if there was "no" legislation for this (or every) right the People already have, it does NOT preclude them from exercising the right. The "Constitutional initiative powers" are already reserved in the Colorado Constitution and the U.S. Constitution as stated above... the "right to alter or abolish," and as stated in Colo. Project-Common Cause v. Anderson, 178 Colo. 1, 495 P.2d 220 (1972).

Second, the right to initiative powers is to be "liberally construed,' as City of Glendale, Supra, counters, but with which Dellinger clearly conflicts with.

In McKee v. City of Louisville, the court stated:

> "By the express provisions of the Colorado Constitution the people have reserved for themselves the right to legislate. . . . Like the right to vote, the power of initiative is a fundamental right at the very core of our republican

> form of government. . . . This court has always liberally construed this fundamental right, and concomitantly, we have viewed with the closest scrutiny any governmental action that has the effect of curtailing its free exercise." McKee v. City of Louisville, 200 Colo. 525, 616 P.2d 972, 969 (1980).

The BOCC's position is in direct conflict with these rulings, as Cheyenne Erosion Dist., Supra, (cited in Dellinger) is creating a constitutional question of inherent rights to the People being voided all across Colorado.

> CONSTITUTION OF THE STATE OF COLORADO
> ARTICLE V, Sec. 1 General assembly - initiative and referendum.
> (2) "The first power hereby reserved by the people is the initiative..."
> (3) "The second power hereby reserved is the referendum..."

These statute sections state that the Legislature is merely "reserving" powers to the people, NOT "granting" such powers. This means the legislature is not "creating" any initiative or referendum power and "granting" it as privilege to the people, but it is "reserving," in statute form, rights which already belonged to the people...

> "...it is not a grant to the people but a reservation by them for themselves." McKee, Supra.

We hold that it is unconstitutional if it is being construed to exclude elector's right to petition the "County" regarding the legislative authority it possesses, and which affects the People directly. If so, it is clearly in conflict with not only the U.S. Constitution, but sited authorities herein.

In Dellinger, the Court stated...

> " The primary issue on appeal is whether the right of initiative set forth in Colo. Const. art. V, § 1, is applicable to, and exercisable by, the electors of un-incorporated, non-home-rule counties in Colorado. We agree with the trial court that it is not and, therefore, affirm."

This is a clear contradiction to above statutes and constitutional law. Further discussion on the Dellinger Court's ruling is elsewhere herein, but there is conflict created by Section 9 of Art. V...

> (9) The initiative and referendum powers reserved to the people by this section are hereby further reserved to the registered electors of every city, town, and municipality as to all local, special, and municipal legislation of every character in or for their respective municipalities."

To reiterate, the "reservation" of the power of initiatives applies to "city, town, and municipality" as stated in this statute, but it is being presumed to preclude even these electors, although having the "reservation of power of initiatives" in their "local" (city, town or municipality) affairs, from having a voice in "County" government, leaving all County governments (not under Home Rule) outside the reach of electors across the counties, and throughout the State of Colorado, from the right of initiative at the County government level.

The Dellinger Court goes on to state...

> "where the language of the Constitution is plain and its meaning clear, the language must be enforced as written."

This clear language of the Constitution (and statutes) was ignored by the Dellinger court, and ANY language of a statute is valid ONLY when such language does NOT violate rights already reserved to the people apart from statutes, or already in statutes. At the time of the original enactment of Art. V, as already referenced, Counties did not have legislative authority or power, and therefore initiative powers were not stated as "reserved" in the Article, (there was no cause to do so) but the original intent as written for "towns, cities and municipalities" clearly shows that the power of initiative was "reserved" to the People in these areas (there were no other legislative areas relevant) because of legislative activities, in which the People had fundamental right to directly confront.

The U.S. Constitution is between the States and the U.S. government, and limits "FEDERAL GOVERNMENT POWER" over the People, as the Colorado Constitution limits State's power over the People. Neither "limit" the People's natural, God-given rights... same as if to a king. (Please see Conclusion). All rights are already held by the People apart from the U.S. Constitution and Colorado State Constitution, and under the 10th Amendment's([3]) limit of power to the U.S. government. All rights not specific to said U.S. Government (ONLY 18 enumerated powers-Article 1, section 8) are "reserved" (not granted) to the States, or the People. The State legislature cannot reduce already possessed, fundamental rights of the whole People, as is being suggested where the County electors cannot create initiatives for their County government, for change where desired.

All powers belonging to the People do NOT have to be legislated into statute form by the State to exist, and certainly ARE not, and, thus, can be exercised by the People at will without permission from servant government.

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[3] 10th Amendment: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." (Emp. Added)

To answer the question as to whether the People have to go to the legislature FIRST (BOCC in this case), can be answered here:

> a. "The initiative provisions are expressly declared to be self-executing, and, as such, only legislation which will further the purpose of the constitutional provision or facilitate its operation, is permitted." Colo. Project-Common Cause, Supra.
>
> b. "The phrase 'that it shall be in all respects self-executing' merely means that the power of initiative and referendum rests with the people whether or not the general assembly implements the power. It does not prevent the general assembly from enacting legislation which will strengthen that power." In re Interrogatories Propounded by Senate Concerning House Bill 1078, 189 Colo. 1, 536 P.2d 308 (1975). (Emphasis added)

It is contended herein that the Constitution and Colorado statutes support the right of the People to petition and create initiatives of ANY governing body that the People create and reside therein. There is no evidence in fact in the record that the BOCC must first be presented the initiative petitions for approval "prior to" gathering signatures, and cannot attempt to reject said petitions prior to adoption, when even the court cannot do so;

In McKee, Supra, at 973, the court recognized that only after a measure is adopted may litigation take place...

> "when actual litigants whose rights are affected are before it, may the court determine the validity of the legislation."

There are NO constitutional rights of the People at risk through the initiative "process."

The McKee, Supra, court also held at 439:

> "...Nor may the courts interfere with the exercise of this right [to initiate legislation] by declaring unconstitutional or invalid a proposed measure before the process has run its course and the measure is actually adopted."

Certainly Starr and the BOCC cannot "interfere with the exercise of this right," and to presume to do so suggests a willful desire to subvert the right and will of the People, and the Federal and State Constitutions, as well as Colorado Statutes.

Lastly, we tried to show extreme good faith, and provided the County with ample opportunity to respond to the laws. It is not our desire to have to bring parties to

Federal Court, or higher, or create expenses for the County, but we, and all Colorado Citizen's rights are being denied. This is a fundamental constitutional question of rights of the People to govern themselves at issue, and this affects most every County in Colorado.

Over 600 signatures on some of these initiatives were collected representing 600+ People who chose to be involved at some level in their freedoms and rights in the time allotted.

Conclusion:

We believe a clear case can be made that it has never been the intent of the Colorado Legislature, or the Courts, to deprive the People of their right to petition their county governments, regardless of their location within a County. If the right to Petition is limited to within smaller local (town, city, municipal) governments, then this also means ALL people of the Counties, including all those within local areas, are being deprived of the right to petition their <u>much larger</u> County legislature/governments. This makes no lawful or constitutional sense.

If the Colorado legislature's intent WAS to limit such petition right, it is clearly unconstitutional and must be declared to be so, Dellinger notwithstanding;

> When an act of the legislature is repugnant or contrary to the constitution, it is, ipso facto, void. 2 Pet. R. 522; 12 Wheat. 270; 3 Dall. 286; 4 Dall. 18.
>
> "Insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby." 16 Am Jur 2d 177, Late Am Jur 2d. 256.
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> "The courts have the power, and it is their duty, when an act is unconstitutional, to declare it to be so; 9 Pet. 85. Vide 6 Cranch, 128; 1 Binn. 419; 5; Binn. 355; 2 Penns 184; 3 S. & R. 169; 7 Pick. 466; 13 Pick. 60; 2 Yeates, 493; 1 Virg. Cas. 20; 1 Blackf. 206 6 Rand. 245 1 Murph. 58; Harper, 385 1 Breese, 209 Pr. Dee. 64, 89; 1 Rep.

If the BOCC has any authority to be legislating ANY laws (independent of the State, which they do), for all of Archuleta County, then this presumes the right of the People, who are the creators of government, and who are the lawful <u>sovereigns</u> which governments, (and employed servants), exist to serve, to petition said County governments, and create initiatives, and to have a lawful and Constitutional voice in said governments, as sovereigns:

> "The People of a State are entitled to all rights which formerly belonged to the King by his prerogative." Lansing v. Smith, 4 Wendell 9, 20 (1829).

(Lansing v. Smith, 21 D. 89., 4 Wendel 9 (1829) (New York) "D." = Decennial Digest Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am.Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 1`67; 48 C Wharves Sec. 3, 7. NOTE: Am.Dec.=American Decision, Wend. = Wendell (N.Y.))

"...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves; the citizens of America are equal as fellow citizens, and as joint tenants in the sovereignty." Chisholm V. Georgia (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL 1793 pp 471-472.

"The people or sovereign are not bound by general word in statutes, restrictive of prerogative right, title or interest, unless expressly named. Acts of limitation do not bind the King or the people. The people have been ceded all the rights of the King, the former sovereign,.....It is a maxim of the common law, that when an act is made for the common good and to prevent injury, the King shall be bound, though not named, but when a statute is general and prerogative right would be divested or taken from the King (or the people) he shall not be bound." People v Herkimer, 4 Cowen (NY) 345, 348 (1825).

"It will be admitted on all hands that with the exception of the powers granted to the states and the federal government, through the Constitutions, the people of the several states are unconditionally sovereign within their respective states." Ohio L. Ins. & T. Co. v. Debolt, 16 How. 416, 14 L.Ed. 997.

"Sovereignty itself is, of course, not subject to law, for it is the author and source of law; ... while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts." Yick Wo v Hopkins, 118 US 356, at pg. 370;

The People are sovereigns and NOT subjects of government, Federal, State or Local. By what authority can the County governments act to implement laws and rules that will affect the whole People in the County, if the People, who created said governments, have no right to alter these governments at the County legislative level?

Complete evidence of documents sent, recordings made and video of meetings, along with eye witnesses and affidavits can be provided as well.

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2. Our second complaint is in regard to bias and prejudice, and depravation of the rights of one of the citizens of Archuleta County who has been attempting to be placed on the ballot for Sheriff, but has consistently been thwarted by Madrid, who is also the mother of the Republican candidate for Sheriff. This issue is discussed below in a letter to Madrid.

Tracy Salazar Candidate for Sheriff, Unaffiliated

299 Canyon Circle Pagosa Springs Colorado 81147
Telephone 731-3323, e-mail:salazar2014@centurytel.net

August 4, 2014
June Madrid
Archuleta County Clerk & Recorder
PO Box 2589
Pagosa Springs, CO 81147
970-264-8350(motor vehicle)
970-264-8331 (elections)
970-264-8357 (fax)

RE: Voting Fraud and Intent to Sue;

Dear June Madrid:

I'm writing this letter to you, instead of to the Secretary of State in order to give us a chance to work this out without third party involvement.

First, I would like to make the point that the issue is about the race for Sheriff of Archuleta County for 2014. I am concerned because for months now I have tried to obtain a position on the ballot for the fall election for sheriff and had continued difficulty over time in getting clear and concise answers from you, that later I discovered were either misleading or down right wrong. This has been going on since August of 2013, which is way too long for any candidate to get straight answers from the county's election official.

I then discovered that your son is one of the two regular party candidates who were running for the GOP nomination and now that he has won the primary, I am even more concerned with respect to the general election.

I have a series of complaints about the intentional efforts on your part to prevent me from complying with all requirements for obtaining a position on the ballot by the use of diversions, deceptions and in some cases, down right lying. This letter is an attempt to correct the situation and make me whole again, from that which was

damaged by your actions. My purpose is to finally meet the deadline for ballot inclusion to where I am not damaged by your efforts of the past.

It is my sincere desire to resolve this amicably, but if we are not able to, then I will have to produce evidence of possible criminal activity on your part with respect to election fraud regarding my attempt to become a potential candidate for sheriff of Archuleta county and will be forced to take appropriate action. Only the voters can decide who should be sheriff, not the county clerk, especially when there is a serious conflict of interest between the clerk, acting as the county election official and the only other candidate who happens to be her son.

Let me begin by providing a summary of our history going all the way back to August 2013 when I was first told by your office I needed to fill out a sheriffs packet so I could begin working on the legal requirements for being placed on the ballot, since I was running as unaffiliated with no primary to be concerned about.

At that time, you were too busy and asked me to wait until the first of the year after the holidays. I complied. I then, on January 24th, again requested the sheriffs packet that you told me you would be giving out at the beginning of the year. I had confirmed the need for the sheriff's packet to be filled out, with the Secretary of State around the same time.

I received your answer on January 27, stating that "...County elections dept has not had a "Sheriff's packet for candidates for over 10 years". I was shocked at that response since you never said a word about it back in August when I first enquired about it. In fact, you gave me the strong impression it was needed since you said you would give it to me in January after the holidays.

I now know that a Sheriff's packet would have saved me months since I would have known about the entire process and had all the forms needed to comply with all the requirements put forth, which I ended up doing a little at a time, usually after the fact, as you pieced misleading information out to me the same way, a little at a time, and late.

Then about April of this year, you provided me with the form titled "General Election for 2014, Access to the Ballot, Archuleta County, State of Colorado". Nowhere in that document did I find any requirement for fingerprints or time period to have them completed, so I assumed what I had to do was comply with all that was in the document that you sent me.

Once the petitions were turned in and certified as acceptable, and I signed the acceptance of the nomination as required, I turned everything into you. You then sent me a letter dated July 11, 2014, 11 months after our first conversation about

what you needed, and at no time did you ever inform me that without those fingerprints I would not be put on the ballot. I was simply under the impression it was a formality that could be done after I had first qualified, since if I did not get the signatures, the prints would not be needed.

It was not until July that you informed me that I could not be put on that ballot due to the lack of prints, which you had never told me during the entire time we had talked. Nor was it on any documents you gave out. That information existed in a black hole of exclusion.

In fact, I now know that legally, a felony does not keep anyone off the ballot, rather you can be on the ballot and have a felony, however, that person if elected, has to meet the qualifications as stated in the Constitution and statutes "...on or before the date the term of office begins". So, a pardon in time for taking office would have taken care of the felony issue and I would have been able to assume the office for which I was elected, if I won.

Nowhere in the State Constitution, or the Colorado revised Statues, does it say anything with respect to a felony keeping a person off the ballot, and since you gave me nothing in writing about any local laws or ordinances addressing the issue, or listing officially how the process works, then I assumed I was still within the parameters of soliciting a ballot position for the office of Sheriff. By the time I would take office, that felony would have been removed and I would have been able to take my place as the elected Sheriff of this county.

That is almost a year after I first inquired about what I needed to be able to be put on the ballot. Due to the entire episode of avoidance, miscommunication, and lack of clear and concise information, I began to suspect some sort of conflict of interest and criminality taking place here. So, my campaign manager put in for a freedom of information request on the same day the letter denying me a position on the ballot arrived.

You can imagine our surprise when we discovered even more proof of your intent to eliminate me, fraudulently, from the race at an even earlier time, way back in March of 2013. I was shocked to say the least. You made me jump through hoops knowing full well that you had already had information about me, that I was in the process of fixing in order to comply with state constitution and state law.

You had already requested underhanded assistance in this attempted exclusion, and did so from the Secretary of States office, seeking advice on how to undermine my attempt to run for that elected office, and did so without ever telling me anything about it. I did not want to believe you were doing this for your son, until I

read both those letters; the one you sent March and the response you received in April.

It was then that I realized how I was being undermined for that position, by someone who had a fiduciary responsibility, as an elected official, to protect the election process from any such incursion and underhanded action and yet, you did so to promote your own son for that position.

A further questionable act on your part, was the providing us with the video we requested under the F.O.I.A., and you leaving off the audio which was more important than the video which tells us nothing. The audio was important and you purposely provided the video without the important information in it.

At this point, the only way to correct these series of questionable acts that have worked to hinder my sincere attempt to meet the requirements for being on the ballot is to meet and discuss our options to fix and correct these questionable actions. There is still time to put me on as a "Write in Candidate", and that should be on the table for discussion if we should meet. I look forward to your response.

Understand, the evidence I have goes beyond that which has been discussed here. In fact, I have left out more acts done that would also bring about criminal charges and or civil suits and would force a recall against you and or your son shortly after the both of you are sworn into office, if not before.

I believe it would be prudent for us to avoid further degradation of the process, by doing all we can to correct these mistakes that I would like to believe were unintentional on your part. Getting together to discuss it and fix it legally, would go a long way in helping me to change my perspective on this issue.

Thanks for taking the time to read and respond to this. I look forward to hearing from you very soon.

Respectfully,

Signed Copy in Mail,

Tracy Salazar

Candidate for Sheriff, Unaffiliated

Mr. Risberg, the People of Archuleta County simply want an independent body of the People within the Grand Jury to receive our complaints and to do an investigation into these allegations, rather than take all parties to court. We could

have gotten thousands of signatures for the ballot initiatives had we more time because the People are sick and tired of the status quo and are ready to do something. Mr. Salazar has been attempting to work with Madrid, but she has been consistently resisting the laws and proper fiduciary actions. She is obviously involved with both of these complaints.

We are requesting the name of the Grand Jury foreman and contact details and procedures for presenting documentation. As you may know, there is a Grand Jury initiation process under way as we speak and which will be completed in all 50 states (49 states with every County instituted to date), through which the People will, once again, have lawful and proper access apart from the Judicial branch of government as the Supreme Court upholds. As you know, Cortez already has a DA, and two County Commissioners, and soon to be others, defending the Constitution. We are showing good faith in contacting your office to encourage you to be part of this lawful process for the People of Colorado.

We also must remind all concerned that Misprision of Felony is still an offense under United States federal law after being codified in 1909 under 18 U.S.C. § 4.

"Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both."

This offense involves active concealment of a known felony rather than merely failing to report it. (See United States v. Johnson, 546 F.2d 1225 (5th Cir. 1977) at 1227 ("The mere failure to report a felony is not sufficient to constitute a violation of 18 U.S.C.A. § 4.")

18 U.S. Code § 3 - Accessory after the fact

"Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact."

In Skelly v. United States (C. C. A. Okl. 1935, 76 F. 2d 483, certiorari denied, 1935, 55 S. Ct. 914, 295 U.S. 757, 79 L. Ed. 1699), the court defined an accessory after the fact as—

"one who knowing a felony to have been committed by another, receives, relieves, comforts, or assists the felon in order to hinder the felon's apprehension, trial, or punishment."

We do not believe any more needs to be said about the ramifications of failing to follow through with evidence of known felonies.

If we do not receive your cooperation and have access to the Grand Jury, we will be forced to file our cases in court, (already prepared), and others as well, and bring this to trial with a jury, naming all who have been thwarting the rights of the People therein, to the Supreme Court if necessary. We look forward to your initial response within 10 working days.

Thank you,

Tracy Salazar	Jeffrey T. Maehr
Candidate for Sheriff, Unaffiliated	For Archuleta County Ballot signers

CC: -
- Archuleta County Clerk and Recorder, June Madrid
- Colorado Secretary of State, Scott Gessler
- Colorado Attorney General, John Suthers
- El Paso County Commissioner, Peggy Littleton
- Pagosa Sun
- Pagosa Daily Post
- Durango Herald

I declare under penalty of perjury that the foregoing document to Todd Risberg, District Attorney, and Alex Lowe, Assistant District Attorney, for District 6 was presented before me by Jeffrey T. Maehr and Tracy Salazar, known to me to be the persons stated and attesting to its validity and truthfulness, by Certified Mail # 7011-0470-0000-1763-4588, on this _____ day of _____, 2014;

_____
Notary Printed Name

_____
Notary Signature SEAL

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Deirdre M McFatridge
Notary Printed Name

Deirdre M McFatridge
Notary Signature

DEIRDRE M. McFATRIDGE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20024025949
MY COMMISSION EXPIRES: 08/13/2018

SEAL