

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. _____

CITIZENS FOR PEACE IN SPACE, an unincorporated association,
WILLIAM SULZMAN,
MARY LYNN SHEETZ,
BARBARA HUBER,
GERARD JACOBITZ,
DONNA JOHNSON, and
APRIL PERGL,

Plaintiffs,

v.

THE CITY OF COLORADO SPRINGS,
a Colorado Municipal Corporation,

Defendant.

COMPLAINT

CITIZENS FOR PEACE IN SPACE ,WILLIAM SULZMAN, MARY LYNN SHEETZ,
BARBARA HUBER, GERARD JACOBITZ, DONNA JOHNSON, and APRIL PERGL,
through their undersigned counsel, state as follows:

Preliminary Statement

1. In October 2003, the United States Secretary of Defense hosted a conference of the Defense Ministers of the North Atlantic Treaty Organization (NATO) at the Broadmoor Hotel in Colorado Springs, Colorado.

2. Citizens for Peace in Space (CPIS), a longtime peace and justice organization based in Colorado Springs, made plans for six of its members to stand peacefully for one hour during

the conference on the public sidewalk across the street from the conference hotel. They intended to hold signs expressing their views on nuclear weapons and the use of military force. The City of Colorado Springs refused to permit this exercise of First Amendment rights, however, because city officials had designated a huge geographical area extending for two full blocks on all sides of the Broadmoor property as a “security zone” from which all critics of government policies and all other members of the public would be excluded.

3. Because of the City’s overly-broad “security zone,” CPIS and its members were prevented from displaying their signs in a location where their message could reach its intended audience. Instead, they were relegated to an area more than 300 yards away from the conference hotel, where the conference participants would not see them or even know they were present.

4. Although Colorado Springs had a legitimate interest in ensuring the security of the NATO conference, that could not and did not justify excluding any and all peaceful expression from such an expansive geographic area. Accordingly, Plaintiffs file this action seeking redress for the City’s violation of their First Amendment right to speak freely, to assemble peaceably, and to petition the government for redress of grievances.

Parties

5. Plaintiff Citizens for Peace In Space (“CPIS”) is an unincorporated association of peace and justice activists initially formed in 1987 to continue the work of an earlier organization, STARS, (Committee to Stop the Arms Race in Space), and to oppose President Reagan’s “Star Wars” initiative. CPIS advocates the demilitarization of outer space and works to heighten public awareness concerning the dangers of, as well as legal and moral issues surrounding, programs instituted by the United States and other nations to expand military

weaponry beyond the earth's atmosphere. CPIS is based in the Colorado Springs area, where its members have frequently stood peacefully outside of U.S. military bases and the Air Force Academy holding signs and handing out leaflets to communicate their views on peace, nuclear weapons, and military policy. Since 2003, CPIS has also participated in a weekly peace vigil in response to the war in Iraq. CPIS is part of the Global Network Against Weapons and Nuclear Power in Space and has a close working relationship with the American Friends Service Committee, winner of the Nobel Peace Prize.

6. Plaintiffs William Sulzman, Mary Lynn Sheetz, Barbara Huber, Gerard Jacobitz, Donna Johnson, and April Pergl are all residents of El Paso County, Colorado, and members of CPIS. All are committed to expressing their views through peaceful and nonviolent means.

7. Plaintiff Bill Sulzman is 65 years old, a retired Roman Catholic Priest, and is a founding member of CPIS.

8. Plaintiff Mary Lynn Sheetz is 52 years old, works as a graphic artist, and is also a founding member of CPIS.

9. Plaintiff Sister Barbara Huber is 71 years old, an active Roman Catholic nun, and has been a member of CPIS since the early 1990s.

10. Plaintiff Gerard Jacobitz is 46 years old and is a theologian and former college professor. He began participating with CPIS in 2003.

11. Plaintiff Donna Johnson is 59 years old and has been a member of CPIS since it was founded in 1987. Ms. Johnson is a psychologist who dedicates a substantial portion of her practice to people of limited economic means.

12. Plaintiff April Pergl is a public school teacher and has been a member of CPIS for three years.

13. Defendant City of Colorado Springs is a Colorado municipal corporation.

14. At all times relevant to this complaint, the City of Colorado Springs and all of its agents and employees were acting under color of state law.

Jurisdiction and Venue

15. This Court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1331, because Plaintiffs' claims arise under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

16. Venue is proper in this Judicial District under 28 U.S.C. § 1391(b) as the Defendant City of Colorado Springs is located in this District and virtually all of the events giving rise to the Plaintiffs' claims occurred in this District.

General Allegations

17. Through newspaper reports that first appeared in the second half of September of 2003, the public and the Plaintiffs became aware of plans for a NATO conference to be held in early October at the Broadmoor Hotel in Colorado Springs. The NATO conference was to be hosted by the United States Secretary of Defense. The conference would be attended by the defense ministers of the various NATO member nations. According to the plans, the entire Broadmoor Hotel would be booked by the conference delegates, who were expected to include 1000 participants from 26 countries. In addition, about 500 members of the press from all over the world were expected to be based at the International Center, across the street from the Broadmoor Hotel.

18. Plaintiffs determined that the NATO Ministers, the additional conference participants, and the international press would be an important audience for their views about peace, nuclear weapons, and the demilitarization of outer space. They decided that they would try to communicate their views to these audiences during the conference.

19. In announcing the plans for the NATO conference, the press also reported the City's plans to impose a "security zone" that would extend for two full blocks in all directions from the perimeter of the Broadmoor Hotel property line. The City of Colorado Springs announced that it would set up barricades and require the approximately 200 residents of the "security zone" to pass through one of five security checkpoints that would be staffed by police and members of the United States Armed Forces. Residents of the area and media representatives with pre-approved press credentials would be permitted to pass through the security checkpoints, but others members of the public who were not connected to the NATO conference would be prohibited from entering.

20. The City's plans for the "security zone" were not prompted by any indications that the NATO conference would be the target of terrorist attacks. Nor were the plans prompted by any indications that large-scale demonstrations were likely. After the plans were announced to the public in September, 2003, Colorado Springs authorities still had no such indications of large-scale protests or terrorist attacks, according to an article that appeared in the Colorado Springs Gazette on September 19, 2003. On information and belief, the article was accurate.

21. In light of the announced "security zone," counsel for the Plaintiffs began making telephone inquiries to various City officials about the possibility of accommodating the Plaintiffs' interest in communicating their views without jeopardizing the City's acknowledged

interest in ensuring the security of the NATO conference. After speaking with representatives of the Colorado Springs Police Department and the City Attorney's office, counsel for the Plaintiffs then sent a letter to the City Manager, the Chief of Police, and the City Attorney's office. The letter, dated October 1, 2003, a copy of which is attached as Exhibit A, outlined the Plaintiffs' proposal for a brief peaceful vigil to be conducted on the public sidewalk outside the International Center, across the street from the Broadmoor Hotel, at the northeast corner of Lake Avenue and Lake Circle Drive.

22. Every year for the past 12 years, during the National Space Symposium that is held at the Broadmoor Hotel, Plaintiffs had been holding banners and distributing leaflets, without incident, at this identical location on the public sidewalk in front of the International Center and across the street from the Broadmoor.

23. In their letter of October 1, 2003, Plaintiffs requested permission to conduct a brief, peaceful vigil at this same location where they had held banners without incident so many times in the past. At that location, Plaintiffs would have been visible to the conference participants at the Broadmoor and the members of the international press who were based at the International Center.

24. In their letter of October 1, Plaintiffs offered to limit the size of their group to no more than six persons, to confine their vigil to no more than an hour, to coordinate the timing of their demonstration per prior arrangement with the City, to submit to the same security checks as the numerous members of the media who were being permitted to enter the "security zone," and to provide the City's police officials, in advance, with the names of each person who would be participating in the demonstration. See Exhibit A.

25. Plaintiffs' letter provided the names of the six intended participants, who are the individual Plaintiffs in this action. As the letter pointed out, CPIS and its members were very well-known to Colorado Springs police as persons who are dedicated to the principles of peace and nonviolence. Indeed, the Colorado Springs Police Department has been monitoring CPIS in its public criticism of government policies for years. It has maintained intelligence files on the political activities and views of the organization and its individual members such as William Sulzman. On information and belief, those intelligence files contain information that confirms that the Plaintiffs in this case have consistently been dedicated to expressing their views through peaceful nonviolent means.

26. The City rejected Plaintiffs' proposal and insisted that they could not enter any part of the "security zone" at any time. Indeed, a representative of the City Attorney's Office stated that there would be no protests whatsoever permitted anywhere on the public streets or sidewalks of the "security zone." After a follow-up inquiry from counsel for Plaintiffs, the City Attorney's Office confirmed that even residents of the "security zone," who would be permitted to enter after clearing security checkpoints, would nevertheless be forbidden to stand on the sidewalk in front of their homes holding signs critical of military policy. According to the City Attorney's Office, "there would be no protest activity allowed on the public rights-of-way within the security zone. Individuals were free to stand on their own property with a sign if they so chose."

27. The City advised the Plaintiffs that it "might" permit a small group to stand for a period of time at a location on Second Street outside the "security zone." The suggested location was over 1200 feet from the entrance to the Broadmoor Hotel, the equivalent of three city blocks

from the symbolic target of the Plaintiffs' message and two full city blocks from the Plaintiffs' requested location. Any theoretical sight line was almost completely blocked by large trees, which were still fully leafed at the time. Thus, the suggested location was essentially invisible from both the conference hotel and the international press within the "security zone." The Plaintiffs would be confined to a narrow grassy strip – with no sidewalk – between the road and the edge of a ditch.

28. All other locations outside the "security zone" where the Plaintiffs might have been allowed to hold their signs were equally invisible both to the conference participants and to the international media located within the "security zone."

29. The NATO conference took place as planned on October 8 and 9, 2003. The planned "security zone" around the Broadmoor was enforced from October 7 to October 10, 2003. There were five "checkpoints" at various perimeter locations to control and accommodate access to areas within the "security zone." The checkpoints were staffed by an armed security force consisting of members of the Colorado Springs Police Department, assisted, upon information and belief, by troops from the United States Army and United States Air Force and agents from the Federal Bureau of Investigation and the United States Department of State.

30. Notwithstanding the response of the City as outlined above, on October 8, 2003, Plaintiffs presented themselves at the checkpoint at Lake Avenue and Second Street on the perimeter of the "security zone." Plaintiffs courteously requested permission to enter the zone for a short period of time to display their signs and communicate their views, and they were denied entrance by the City. Instead, representatives of the City of Colorado Springs Police Department conducted the Plaintiffs to the area across Second Street, as described above in

paragraph 27, and advised them that this was the only location in the vicinity where they would be permitted to stand with their banners.

31. Thus, the City of Colorado Springs, through its official actions, prevented the Plaintiffs from reaching their intended audience and forced them to conduct their vigil in a location far removed from the symbolic target of their message.

Claim for Relief

32. Paragraphs 1 through 31 are incorporated herein by reference as if set forth in full.

33. The decision to establish the “security zone,” as described above, was an official policy of the City of Colorado Springs. The actions of agents and employees of the City of Colorado Springs, as described above, were all carried out pursuant to the official policy of the City of Colorado Springs.

34. The policy of the City of Colorado Springs, as described above, and the actions of City employees in carrying out that policy, deprived the Plaintiffs, and each of them, of fundamental rights guaranteed and protected by the First Amendment to the United States Constitution, including the right to speak freely and the right to assemble peaceably and petition the government for redress of grievances.

35. The policy and official actions of the City of Colorado Springs, as described above, deprived Plaintiffs of rights, privileges, and immunities secured to them by the Constitution and laws of the United States, entitling the Plaintiffs to redress under 42 U.S.C. § 1983.

36. As a result of the policy and official actions of the City of Colorado Springs, as described above, the Plaintiffs have suffered injury and are entitled to redress in the form of an award of nominal compensatory damages pursuant to 42 U.S.C. § 1983.

Prayer for Relief

WHEREFORE, the Plaintiffs pray that this Court enter Judgment in their favor, and against the Defendant City of Colorado Springs, as follows:

- a. for an award of nominal compensatory damages; and
- b. awarding the Plaintiffs their reasonable attorneys fees and costs incurred in connection with this action from the City of Colorado Springs pursuant to 42 U.S.C. § 1988 and all other applicable law; and
- c. granting the Plaintiffs such further and different relief as the Court may deem just and proper.

Dated this ____ day of _____, 2004.

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