

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

Civil Action No. **08-cv-00910-MSK-MJW**

AMERICAN CIVIL LIBERTIES UNION OF COLORADO,
AMERICAN FRIENDS SERVICE COMMITTEE,
AMERICAN INDIAN MOVEMENT OF COLORADO,
AMERICANS FOR SAFE ACCESS,
CODEPINK,
ESCUELA TLATELOLCO CENTRO DE ESTUDIOS,
LARRY HALES,
GLENN MORRIS,
RECREATE 68,
ROCKY MOUNTAIN PEACE & JUSTICE CENTER,
DAMIAN SEDNEY,
TENT STATE UNIVERSITY,
TROOPS OUT NOW COALITION, and
UNITED FOR PEACE & JUSTICE,
Plaintiffs,

v.

THE CITY AND COUNTY OF DENVER, COLORADO,
MICHAEL BATTISTA,
THE UNITED STATES SECRET SERVICE, and,
MARK SULLIVAN,
Defendants.

DECLARATION OF TONY BOUZA

I, **Tony Bouza**, under penalty of perjury of the laws of the United States of America,
declare as follows:

1. I am over the age of 18. I am competent to give testimony in this matter. The statements contained herein are based upon my personal knowledge. This declaration is being given in connection with Plaintiffs' First Motion For Preliminary Injunction and the proceedings related thereto.

2. I am a retired police officer. I began my career in law enforcement as a patrol officer in the New York Police Department on January 1, 1953. I served as an NYPD police officer until 1976.

3. While I was employed by the New York Police Department, I rose through the ranks, receiving eleven promotions and achieved “two-star” status; I was placed in charge of the entire Bronx Patrol Forces, overseeing approximately 3,000 men and women.

4. In 1976, I became the Deputy Chief of the Transit Police for the City of New York City. I served in that capacity until 1979.

5. During my tenure as an officer with the New York Police Department (between 1957 and 1965) I served as an operative and supervisor in the Bureau of Special Services (often dubbed “The Red Squad”), providing security for visiting dignitaries and conducting investigations and gathering intelligence on subversive activities. In that capacity, I interacted and coordinated with other law enforcement agencies, including the FBI, United States Secret Service, and other state and federal agencies, in making and implementing security plans for large-scale public demonstrations and other events of national significance, including Presidential visits and those of visiting foreign dignitaries.

6. In 1980, I became the Chief of Police for Minneapolis, Minnesota. I served in that capacity until I retired from active law enforcement in 1988. While I was Chief of Police, I supervised an active force of approximately 800 officers.

7. During my tenure as Chief of Police, I had occasion to supervise my officers – in coordination with other law enforcement agencies, including the United States Secret Service and other federal agencies – in making security plans and implementing those plans in

connection with several large-scale public demonstrations. One such event was the 1984 visit of President Ronald Reagan to the city of Minneapolis. As soon as the plans for President Reagan's visit were finalized, and weeks ahead of that visit, we informed the public where the President would be at specific times, and also informed the people wishing to protest the President's visit where (within 100 feet of the President) they would be permitted to congregate and to engage in free speech activities.

8. Since my retirement from active service as a law enforcement officer, I have testified numerous times as an expert witness on a variety of subjects concerning the proper training and on-duty conduct of law enforcement officers, including issues related to effective crowd control, arrest techniques, use of non-lethal and lethal force, false arrests, search and seizure questions, and security planning and implementation.

9. I have reviewed the Declarations of Deputy Chief Michael Battista and Secret Service Agent Kathy Michalko that were submitted as exhibits to the defendants' separate responses to the Plaintiffs' First Motion for Preliminary Injunction.

10. In my professional opinion, there is no legitimate law enforcement or security planning basis for Deputy Chief Battista's and Agent Michalko's assertions that public disclosure, in advance of the Democratic National Convention, of the location, size, or other parameters of the "public demonstration zone" (to be situated on the grounds of the Pepsi Center) will "seriously impair" the operational security plan for the Democratic National Convention.

11. It is undoubtedly true that providing the public with information about the location of an event, and the time that certain individuals will be present at a particular location,

makes it “easier” for evil-doers to make plans to attack such targets. Thus, disclosure of the fact that the Democratic National Convention will occur inside Denver’s Pepsi Center, between August 25 and August 28, 2008, and that activity on the Convention floor will occur between 4:00 and 9:00 p.m., provides helpful information to those planning to disrupt or commit unlawful acts directed at attendees to that Convention. So too, informing the public that there will be a “public demonstration zone” of some size and configuration on the grounds of the Pepsi Center within sight and sound of the convention delegates, while they are on the grounds of the Pepsi Center, provides additional and useful information to those with nefarious intent. Nevertheless, all of the above disclosures have already been made by the Denver Police Department, and they did not compromise the operational security of the plan to keep delegates and other convention attendees safe throughout the Democratic National Convention.

12. It is my understanding that at past national political conventions, the precise locations of the public demonstration areas adjacent to the convention halls were disclosed by law enforcement officials months in advance of those conventions, without any concerns that security plans were being compromised as a result of those disclosures. The same is true with respect to the terminus or end-points of parade routes to the convention halls where past national political conventions were held; prior disclosure of those parade routes, weeks and months ahead of those conventions, was not deemed to pose any significant security threat or obstacle to the ability of the Secret Service and other law enforcement agencies to maintain operational security and assure the personal safety of all convention attendees.

13. I am not aware of any unique circumstances surrounding the upcoming Democratic National Convention in Denver that would require the law enforcement agencies

responsible for security there to treat that convention any differently from past events of this nature.

14. Indeed, it is my understanding that law enforcement officials in the City of St. Paul, Minnesota, have already disclosed the precise location of the public demonstration area that will be adjacent to the Xcel Energy Center during the Republican National Convention, as well as the precise parade route for which one permit has already been granted. No one, to my knowledge, has suggested that as a result of those public disclosures, the St. Paul Police Department, in conjunction with the United States Secret Service, will not be able to fully protect the delegates and attendees to that convention or to maintain operational security throughout the convention.

15. Throughout my thirty-six years as an active law enforcement official, both in New York and in Minneapolis, no one in law enforcement ever suggested to me, in anticipation of, and planning for, a large-scale demonstration connected to a particular appearance of a public official or visiting dignitary, including the President of the United States, that it would undermine operational security to disclose, in advance of the event, the areas where the public would be permitted to engage in free speech and assembly in connection with such visit.

16. Planning to provide security at a major political event such as a national political convention requires law enforcement to make realistic assessments of the types of risks and security threats that may be encountered and to take appropriate and proportionate precautionary measures to reduce or minimize those risks, while recognizing that all risk can never be eliminated and there is a need to balance those precautions against the rights of convention attendees, passersby, and protesters.

17. Obviously, steps could be taken to greatly reduce the risk of any and all security threats against the Convention or its attendees, e.g., by keeping everyone but conventioners five miles away from the Pepsi Center throughout the week of the DNC. Such a plan would greatly reduce the risk of any type of attack on the Pepsi Center or its attendees, but would be deemed clearly inconsistent with the rights of other stakeholders in the process. One of the tradeoffs of living in a free and open society is that we must all tolerate a greater degree of risk than would be accepted by those in control of a totalitarian state.

18. In my professional opinion, the hypothetical scenarios depicted in the Declarations of Deputy Chief Battista and Agent Michalko resulting from the disclosure of the precise location and configuration of the public demonstration zone – whereby a hypothetical terrorist’s plot to hurl or launch explosives or projectiles at the Pepsi Center or delegates attending the convention is dependent on disclosure of information related to restrictions on First Amendment activity – are highly speculative, far-fetched and fantastical, and the purported need to keep secret the location and parameters of the public demonstration zone (and the terminus of the designated parade route) does not represent a realistic assessment of known or predictable risks against which appropriate security measures can be planned and executed.

19. The foregoing is true and correct, to the best of my knowledge or recollection.

Executed this 4th day of June, 2008.

By: Tony Bouza
Tony Bouza (by SDJ)