



DENVER
THE MILE HIGH CITY

Citizen Oversight Board

2019 Annual Report



Letter from the Chair • March 15, 2020

Greetings,

It is my privilege to present this annual report of the Denver Citizen Oversight Board. The report is a compilation of ordinance-mandated information the Board is obliged to provide annually and covers the period from January 1, 2019, to December 31, 2019. It includes: (i) an assessment of the work of the Denver Office of the Independent Monitor (OIM); (ii) a summation of significant activities of the Board in 2019; (iii) a description of concerns expressed by citizens of Denver; and (iv) recommendations for changes to certain policies of the Denver Police and Sheriff Departments.

The Board is grateful for the diligence and vigorous professionalism of the OIM in actively monitoring investigations of misconduct by uniformed personnel, engaging in the disciplinary process, and making recommendations to improve policies and training to the Denver Police Department and Denver Sheriff Department.

In 2019, the Board experienced significant transition after the retirement of Pastor Paul Burleson, who served as a member of the Board from its inception. We thank Pastor Burleson for his 13 years of service to the Denver community, as well as his leadership in ensuring civilian oversight of law enforcement. Three other Board members' terms expired at the end of 2019, and each will retire when their replacements are appointed. Among these are Dr. Mary Davis, Francisco Gallardo, and Mark Brown. I would be remiss not to also acknowledge the ten years of service by Dr. Davis, including several years as the Chair of the Board. As part of this transition, we welcomed technology executive Aldwyn Gardner as a member of the Board in February 2019.

The system of civilian oversight of law enforcement in Denver was strengthened last year with the passage of changes to the City ordinance, including revisions to the size of the Board and the process for appointing new Board members. The ordinance changes also ensured the OIM's ability to effectively carry out its work. We observed an increased interest in civilian oversight locally and nationally. As a result, members of the Board, as well as the OIM consulted with community partners in Boulder, Aurora, Colorado Springs, Austin, and elsewhere as these communities work to develop oversight in their jurisdictions.

An essential function of the Board is to give voice to citizen concerns. We heard from community members on a range of issues, including the inmate visitation system and the use of the show-ups. That said, we recognize the need for more community participation and engagement. Only with the support of citizens can we meet our mandate to foster change towards cooperative, just, and accountable relationships between Denver's community and law enforcement.

Mindful that our Board was forged out of the struggle of members of our Denver community, we do not take our charge lightly. As we move into year 15 of civilian oversight in Denver, I am acutely aware of the work that still must be done. We will continue to strive to engage the safety departments and the community to improve law enforcement in Denver.

Sincerely,

Katina C. Banks, Chair
Citizen Oversight Board

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The Citizen Oversight Board

The Citizen Oversight Board (COB) consists of nine community members appointed alternately by the Mayor and City Council, with one joint appointee. The COB is required by ordinance to report on its activities, findings, and recommendations on an annual basis.¹

Citizen Oversight Board Members

Katina Banks, Chair, is an intellectual property and technology transactions attorney at Baker & Hostetler LLP. A proud Denver native, she has been civically engaged throughout her professional career. She served eight years on the Colorado Civil Rights Commission, helping enforce the state's anti-discrimination laws. Katina was a member of the Colorado Lawyers Trust Account Foundation (COLTAF), which helps provide legal services statewide to underserved members of the community. She graduated summa cum laude from Capital University Law School after earning her Bachelor of Arts degree at the University of Pennsylvania. She lives in Denver's Park Hill neighborhood.

Nikki Braziel, Vice Chair, is the co-founder of Octa, a Denver-based product design and manufacturing company focused on mounting solutions for mobile technology. She previously worked at the Space Science Institute in Boulder, where she assisted in the development and distribution of museum exhibits and displays. Before leaving her native Chicago, she worked in both legal marketing and professional development at Jenner & Block LLP. In her free time, she writes historical fiction.

Molly Gallegos, Secretary, a Colorado native, has been working in the community for most of her life, doing everything from translating safety information for migrant workers to participating in community theater with Su Teatro. She began her career as a community organizer in West Denver, cultivating community leaders and advocating for the needs of Denver's working families. More recently she has found her calling working with Denver's high school students, providing them the support and encouragement they need to access their post-high school goals. Molly holds a bachelor's degree in Ethnic Studies from Colorado State University and a Master of Social Sciences/Women and Gender Studies from CU Denver.

Mark Brown is a former Agent-in-Charge for the Colorado Department of Revenue, a regulatory law enforcement agency, and has experience conducting firearms and arrest control technique training. Currently the CEO/Property Asset Manager with Re | Proma Real Estate Management Company, Mark attended CU Boulder and lives in Denver's Northeast neighborhood.

¹ Denver Revised Municipal Code §2-378(b) and §2-384.

Dr. Mary Davis is President/CEO of McGlothlin Davis, Inc, an organization effectiveness firm that has provided consulting services to public, not-for-profit, and private sector firms throughout the nation since 1995. Dr. Davis has been actively involved in civic and community improvement activities in Denver for decades. She has served on five nonprofit boards, having been elected Board Chair for two of these organizations. She joined the COB in February 2009.

Francisco “Cisco” Gallardo joined and helped create what has been one of the largest gangs in Denver's north side in his teen years. Since that time, he has dedicated his life to undoing the damage he helped create. Over the past 26 years, he has worked in the community to redefine respect, power, and pride; he has helped countless young people to reclaim their own lives. He joined the COB in 2012.

Al Gardner is the Vice President of Information Technology for Denver based Inspirato. Mr. Gardner specializes in strategic IT leadership and overall network, systems, and cybersecurity operations management. Al is a passionate coach and mentor who has a reputation for building and motivating highly effective teams built on a culture of integrity, compassion, innovation, and performance. Mr. Gardner’s commitment to the Denver community extends beyond his professional endeavors. He has served as Denver African American Commissioner and in various roles with the Denver Police Department Chief’s Advisory Board, Denver Public Schools Equity Task Force, and Denver Sheriff Advisory Board. Al Gardner holds both a Bachelor’s Degree and a Master’s Degree in Business Administration.



Retired, 2019

Pastor Paul Burleson, seen here with former COB Chair, Dr. Mary Davis, is the founder of Denver's Friendship Baptist Church of Christ Jesus launched in 1974. He is past president of the Greater Metro Denver Ministerial Alliance. A former dean of the United Theological Seminary's Denver Extension, Burleson is experienced in the prevention, identification, and counseling of individuals and families with substance abuse and other at-risk behaviors. He served with the US Air Force in Korea. A founding Board member, Pastor Burleson had served on the COB since 2005. He retired from the Board in 2019.



Duties and Authority of the COB

The COB was created by ordinance in 2004. By ordinance, the functions of the Board shall be to:

1. Assess the effectiveness of the OIM;
2. Make policy-level recommendations regarding Denver Police Department (DPD) and Denver Sheriff Department (DSD) discipline, use of force, and other policies, rules, hiring, training; community relations; and the complaint process;
3. Address any other issues of concern to the community, members of the COB, the monitor, the manager of safety, the chief of police, the undersheriff, or the fire chief;
4. Make recommendations as to specific cases that were closed by the DPD or DSD Internal Affairs Bureau (IAB), the Department of Safety's Public Integrity Division; and²
5. Perform other duties as set forth in the ordinance.³

² Denver Mayor's Office News Release, *Mayor Hancock Launches Public Integrity Division*, December 13, 2018.

³ Denver Revised Municipal Code §2-377.

The COB has no command responsibilities with respect to the DPD and DSD. It carries out its advisory duties in frequent meetings with the Independent Monitor and Department of Safety (DOS) personnel, including the Sheriff, Chief of Police, and Executive Director. These meetings allow COB members to monitor confidential internal investigations and to make recommendations on discipline for individual IAB cases as well as policy recommendations.

In November of 2016, Denver voters overwhelmingly approved Referred Measure 2B, which placed the OIM and the COB into the city charter. In February 2019, Denver City Council voted to approve a change, by ordinance, to the appointment process of the COB members, while adding an eighth and ninth member to the Board and provisions to stagger member's terms. Prior to the ordinance changes, the Mayor was solely responsible for all appointments to the COB. With the changes, those duties are now split between City Council and the Mayor.⁴

Other notable changes include clarifications that the Independent Monitor has authority to monitor investigations into claims of misconduct against the Sheriff or Chief of Police, and prohibitions against retaliation for reporting misconduct to or cooperating with the OIM.⁵

"I applaud Denver City Council leaders Kniech, Kashmann and Lopez for their commitment to independent oversight in Denver. Community organizations were the catalyst for these critically important ordinance changes, and their work on this bill will help to improve public safety for all of Denver."

~ Katina Banks, Chair of the COB



Complaints and Commendations

The COB receives complaints against and commendations of sworn staff of the Denver Police and Denver Sheriff Departments. Complaints may be submitted by email, mail, over the phone, through an online **complaint and commendation form**, or through the Office of the Independent Monitor. Complaints and commendations received by the COB are forwarded to the Office of the Independent Monitor, which works with DPD and DSD Internal Affairs, making recommendations about the handling, investigation, and any associated discipline. The COB has no investigative authority.

⁴ Denver Revised Municipal Code §2-378 (b).

⁵ COB News Release, *Denver City Council Passes Bill that Strengthens Denver's Office of the Independent Monitor and Expands the Citizen Oversight Board*, February 20, 2019.

Assessment of the Work of the Office of the Independent Monitor

The ordinance that established the OIM entrusts the authority to evaluate the performance of the Monitor with the COB. The COB makes this evaluation through a qualitative evaluation system that the COB developed in 2013 and has evolved in subsequent years, as well as a series of quantitative measures and data points.

The COB used a four-pronged evaluation approach: 1) an analysis of the detailed employee survey deployed city-wide in 2019 with breakout data from OIM staff, 2) a separate qualitative survey of COB members, 3) an interview with the only non-interim stakeholder in Safety Department leadership, and 4) a series of quantitative performance measures.

Staff Engagement

In 2019, the City and County of Denver (CCD) retained Price Waterhouse Cooper/Guidehouse (PWC/G) to conduct a thorough review of employee engagement across all city agencies and departments. A summary of the [City and County of Denver 2019 Employee Engagement Survey Results](#) is posted online at [Denvergov.org](#). The City and County of Denver had an overall response rate to the survey of 68% and the OIM had a response rate of 100%.⁶

The results indicate a very high level of engagement in the work of the OIM by all staff members. In one finding, the Employee Engagement Index, which is a composite average across six key areas – the office of the Independent Monitor had an index score of 97% compared to a national benchmark of 70% and an overall City and County of Denver score of 75%. The Office of the Independent Monitor registered 93% of employees as “Champions” defined by PWC/G as “*The percentage of employees who are highly engaged and highly committed to staying with CCD,*” the overall CCD Champion rate was 57%.⁷

Based on the data points in the survey and comments from Board members, discussed in more detail in the section of this report entitled *COB Rankings*, it is the strong opinion of the Board that the OIM is well-positioned to meet the requirements of the ordinance and serve the interests of the citizens of Denver in the coming year.

⁶ Price Waterhouse Cooper/Guidehouse, *City and County of Denver Employee Engagement Survey Results*, DENVERGOV.ORG, accessed on February 8, 2020.

⁷ Price Waterhouse Cooper/Guidehouse, *City and County of Denver Employee Engagement Survey Results*, Agency Report for: Denver Office of the Independent Monitor, September 3, 2019.

Policy and Training Impact of OIM with Safety Leadership

In recent years, the Chair of the COB conducted interviews with Denver's safety leaders to inform the COB's assessment of the OIM in the previous year, including the Executive Director of Safety (EDOS), the Chief of the DPD, and the Sheriff. In October 2019, former DSD Sheriff Patrick Firman announced his resignation from the DSD, and, in January 2020, former EDOS Troy Riggs announced that he would be resigning from the Department of Safety.⁸ As the DSD and Department of Public Safety are currently without permanent leadership, the focus of this year's report is based on discussions with available Safety leadership conducted in February 2020.

Pattern Analysis Informs Re-Training

In September of 2019, DPD Chief Pazen initiated a supervisor "all-call" with DPD Sergeants to reinforce training and adherence to policies. The content of the session was developed from lessons learned as informed by data from IA and the Conduct Review Office, along with input from the Office of the Independent Monitor on patterns of complaints. This supervisor all-call is conducted periodically, currently twice a year.

Policy Input & Overview

The Office of the Independent Monitor provided research, analysis, and recommendations for two key policy initiatives undertaken by DPD in 2019. Their recommendations were incorporated into policy revisions on show-up identification procedures and handcuffing juveniles, the elderly, or those with an intellectual/developmental disability.⁹

On the whole, the work of the OIM was characterized as productive. It was further indicated that the OIM helps DPD serve the community better and that the OIM is working with DPD according to the intent of the ordinance.

COB Ratings

The seven Citizen Oversight Board members rated the Office of the Independent Monitor (OIM) in six key areas. Each member was asked to select a rating of outstanding, satisfactory, or unsatisfactory in each performance category.

Communication with the COB

The OIM was rated as **outstanding** (7 members) at providing regular reports to the COB during bi-monthly meetings, keeping the COB informed about the status of investigations and disciplinary cases, critical incidents and the overall operation of the OIM, and seeking input from the COB on significant case investigations and discipline. One member noted that *"The Independent Monitor, and under his leadership, the Deputy Monitors and staff, frequently report issues and significant cases to the COB regarding DPD and DSD."*

⁸ Elise Schmelzer, *Patrick Firman out as Denver sheriff*. THE DENVER POST, September 11, 2019 at 9:46 p.m. | updated: September 12, 2019 at 7:58 a.m.; Elise Schmelzer, *Denver public safety chief Troy Riggs resigning after less than two years on the job*, THE DENVER POST, Jan. 6, 2020.

⁹ Denver Police Department Operations Manual 104.44 (4), Show-up Procedures and §104.00 (15), Arrests.

Another characterized the communication from the OIM as delivered in *"a detailed and sensitive manner"* and indicated that the OIM *"is committed to keeping us informed of any matters that may affect our ability to be effective citizen representatives"* while a third member indicated their appreciation for the follow-up from the OIM, indicating *"the OIM has always been very good about communicating with us. They update us often, and I appreciate when someone asks about updates on cases we've heard in the past, if they don't know it offhand, they get it to us at a meeting in the near future."*

Monitoring and Review of Internal Affairs Investigations

The OIM was rated as **outstanding** (7 members) at the monitoring and reviewing of DPD and DSD internal affairs bureau (IAB) investigations. Another Board member stated, *"Nick and his excellent staff monitor and review internal investigations using their thorough knowledge of best practices in conducting investigations, whether in the Sheriff or Police Departments."*

However, one member acknowledged a concern that given the *"sometimes adversarial nature of the process, I think they do everything they can."*

Monitoring of Disciplinary Process

The OIM was rated as **outstanding** (7members) at the monitoring and review of DPD and DSD disciplinary processes, including making recommendations to the DPD Chief, DSD Sheriff, and Office of the Executive Director for Safety regarding findings and discipline. One member stated, *"Nick continues to make a rigorous effort to coordinate with the DPD and DSD throughout the disciplinary process."* Another member stated, *"I think the Independent monitor reviews the disciplinary process very fairly and when he does have a recommendation the OIM backs it with facts and solid logic."*

Two members expressed concern about how much weight is given to the OIM's recommendations in disciplinary outcomes by the DOS stating, *"I would like to see the OIM find ways to be more effective at influencing outcomes, to gain leverage in the process for more justice for those citizens who have been impacted."* While another member noted that, *"Sometimes the OIM efforts seem not to be reciprocated, which may contribute to a bit of a backlog in processing disciplinary actions."*

Monitoring and Review of Critical Incidents

The OIM was rated as **satisfactory** (1 member) to **outstanding** (6 members) at their roll-out response to critical incidents and managing the active monitoring of officer and witness interviews. A COB member commented: *"This activity is conducted consistently in a supportive manner even when critical incidents occur in the evening, middle of the night hours, or on weekends."* Another member noted, *"The monitor and deputies roll out to all critical incidents relating to officer-involved shootings and death in custody cases."*

Two members addressed concerns in this area, stating, *"I have concerns regarding OIM's access to information relating to incidents in the jail and DCC. The system relies on complete and accurate reporting within IAPro, but experience with the PID policy process suggests not all complaints are recorded,"* and *"my only issue is with their access but that's not really in their hands."*

Public Reporting

The OIM was rated as **outstanding** (7 members) at managing the development and writing of the OIM's public reports and working with OIM staff to identify and report trends regarding complaints,

investigations, and discipline of uniformed personnel, as well as patterns relating to the sufficiency of investigations, violations of department rules and policies, and the appropriateness of disciplinary sanctions, if any. One member praised the OIM's use of data *"The data the OIM puts out for their reports are always thorough and carefully verified."* Another member noted: *"In the past year, the OIM has done an excellent job in this area. Reports are very detailed in a way that communicates with the public, media and other stakeholders how OIM contributes to the well-being and safety of Denver residents."* It was also noted that *"...the OIM does their best to provide important info in a timely and as compelling a way as possible, I think the public gets a lot out of their annual reports and special reports."*

Members indicated a concern about access to and consistency of information, commenting: *"However, it is an on-going concern that the various departments need to collect better data and share all of that data with the OIM so that they can identify patterns and make meaningful improvement recommendations. This is an especially serious concern now with so many leadership positions held on an acting basis."*

Community Engagement

The OIM was rated as **satisfactory** (2 members) to **outstanding** (5 members) at engaging in community outreach efforts, promoting awareness of the complaint process and civilian oversight of law enforcement and conducting outreach meetings and presentations to citizens, community groups, police officers, sheriff deputies, and other process stakeholders. One member noted that *"the OIM has received awards for its outreach efforts to youth through its Kids and Cops program."*

One member addressed the ranking based on capacity, *"I think the more visible the OIM is, the better for their work and for getting support to expand their ability to do the work, but they need more capacity to make this feasible."* Another member ascribed the rating to the impact of a staffing change.

Leadership

Members were not asked to provide a rating in this area. However, in their assessment, several members of the COB used the comment section to highlight the leadership role played by the Independent Monitor and OIM, noting: *"I'm confident that Nick's leadership will continue to help guide the new board members"* and *"Nick supports the development of recommendations that can be implemented to improve policies, practices, and training of the DPD and DSD. With his encouragement, several staff members have participated in NACOLE conferences, a tool for learning about best civilian oversight of law enforcement practices...with several serving as moderators."* A member additionally commented that *"... the Monitor has been asked to meet with surrounding communities in Boulder, Colorado Springs and Aurora regarding the addition of civilian oversight in their communities."* One member noted that oversight of law enforcement is a growing concern in communities across the country, and pointed to the advisory role played by Denver's OIM *"...from the request of the Phoenix Assistant City Manager to meet with City Council to conference calls, meetings and other discussions with communities from Madison, Wisconsin to Nashville, Tennessee, and even hosting a delegation from Mexico, Denver's OIM is looked to as a model for effective oversight."*

Workload and Performance Measures

The COB assesses the OIM on several quantitative workload measures related to the work produced by the office. Table 1 below presents those workload measures. In 2019, the DPD recorded 445 complaints against DPD sworn personnel and reviewed 489 investigations of alleged misconduct by DPD officers. From 2018 to 2019, the number of recorded DPD complaints increased by 4%, and the number of DPD investigations reviewed decreased by 1%. Two more investigations were actively monitored, from 27 actively monitored investigations in 2018 to 29 in 2019. The number of complaints against sworn DSD staff and the number of DSD investigations decreased substantially, with a 46% decrease in recorded DSD complaints and a 28% decrease in DSD investigations reviewed from 2018 to 2019.

Table 1. OIM Workload Measures, 2016-2019

A. Complaint Monitoring Workload		2016	2017	2018	2019
<u>1. Denver Police</u>					
a. Number of Citizen-Internal Complaints Recorded		481	541	427	445
b. Investigations Reviewed		517	563	496	489
c. Actively Monitored Investigations		16	21	27	29
d. Completed Mediations		37	53	32	32
<u>2. Denver Sheriff</u>					
a. Number of Citizen-Inmate-Internal Complaints Recorded		170	335	451	244
b. Investigations Reviewed		248	265	498	359
c. Actively Monitored Investigations		57	72	135	150
d. Completed Mediations		0	0	5	6
B. Discipline					
<u>1. Denver Police</u>					
a. Disciplinary Recommendations Made		126	140	145	111
<u>2. Denver Sheriff</u>					
a. Disciplinary Recommendations Made		99	104	129	172
C. Critical Incidents					
<u>1. Denver Police and Sheriff</u>					
a. Officer-Involved Shooting Investigations Monitored		23	17	14	10
b. In-Custody Death Investigations Monitored		7	4	4	10

The COB also assesses the OIM on several quantitative performance measures related to its work with the DPD. As shown in Table 2 below, in 2019, the OIM reviewed nearly 100% of DPD investigations and 91% of DPD disciplinary decisions prior to case closure. Nearly all DPD complaints received by the OIM were referred to DPD IAB within three days, and 94% of DPD IAB investigations were reviewed by the

OIM within ten days. The OIM's outreach efforts continued to be robust, with 182 community outreach events and 78 officer/deputy outreach events in 2019.

Table 2. Quantitative Performance Measures for Evaluation of the OIM, 2016-2019

Performance Indicator Category	2016 Performance	2017 Performance	2018 Performance	2019 Performance
1. Percentage of DPD IAB Investigations (full formal investigations and declines) reviewed by OIM prior to case closure.	100%	100%*	100%	100%*
2. Percentage of DPD disciplinary decisions of IAB cases reviewed by the OIM prior to case closure.	100%	89%	96%	91%
3. Number of <u>community</u> outreach events held/attended by the OIM calendar year.	150	165	173	182
4. Number of <u>officer/deputy</u> outreach events held/attended by the OIM in a calendar year.	79	87	91	78
5. Number of complaint/commendation form distribution sites.	66	66	72	80
6. Percentage of citizen complaints referred to DPD IAB within three business days (for complaints filed through the OIM).	98%	97%	98%	97%
7. Percentage of DPD IAB investigations reviewed by OIM monitors within 10 days.	92%	89%	96%	94%
8. Percentage of DPD citizen complaints mediated.	8%	11%	9%	9%

* The OIM did not review one IAB investigation prior to case closure, but this percentage was rounded to the nearest whole number.

COB Activities in 2019

The COB does its work in three primary settings: COB meetings, Executive Sessions, and Quarterly Public Forums.

COB Meetings

The COB typically meets twice monthly in regular working sessions. The COB meets with the EDOS, the Sheriff, and the Chief of Police at least quarterly, and with others on an as-needed basis. These quarterly meetings help to keep the COB informed on current policies and upcoming initiatives. They also provide the COB with the opportunity to give feedback to the EDOS, the Sheriff, and the Chief of Police. The COB also receives updates from the Independent Monitor and his staff. COB meetings are open to the public except for executive sessions to discuss ongoing investigations and other privileged matters. These meetings are generally held at the OIM at 101 West Colfax Avenue, Suite 100, at 10 am on the first and third Fridays of the month.

The COB held 20 regular meetings in 2019. The COB met regularly with Denver's safety leadership throughout 2019, including quarterly meetings with the Sheriff, Chief of Police, and EDOS. These meetings took place during regular COB meetings and were open to the public unless confidential exchanges were involved. Discussions between COB members and officials at these meetings were productive and informative.

Executive Sessions

In 2019, the COB devoted a portion of regularly scheduled meetings to executive sessions with the Independent Monitor in order to review a variety of pending disciplinary cases and ongoing investigations. The information gleaned in these sessions remains confidential under City and State laws and regulations.¹⁰

Public Outreach

The COB holds at least three public meetings annually in various locations around Denver, rotating to increase community outreach in different Denver Police Districts. Channel 8 records these meetings for broadcast and ease of accessibility for those unable to attend in person. In 2019, the COB held three quarterly public forums in DPD Districts 3, 5, and 2, respectively.

Q2 2019 | Thursday, April 4, 2019 | 7:00 – 8:30 PM

South High School | 1700 E. Louisiana Avenue, Denver, CO 80210

Presentation of the 2018 Office of the Independent Monitor Annual Report

Q3 2019 | Thursday August 22, 2019 | 6:00 – 8:00 PM

Oakland Elementary School | 4580 Dearborn St, Denver, CO 80239

Conversation on Criminal Justice Reform Legislation in Colorado

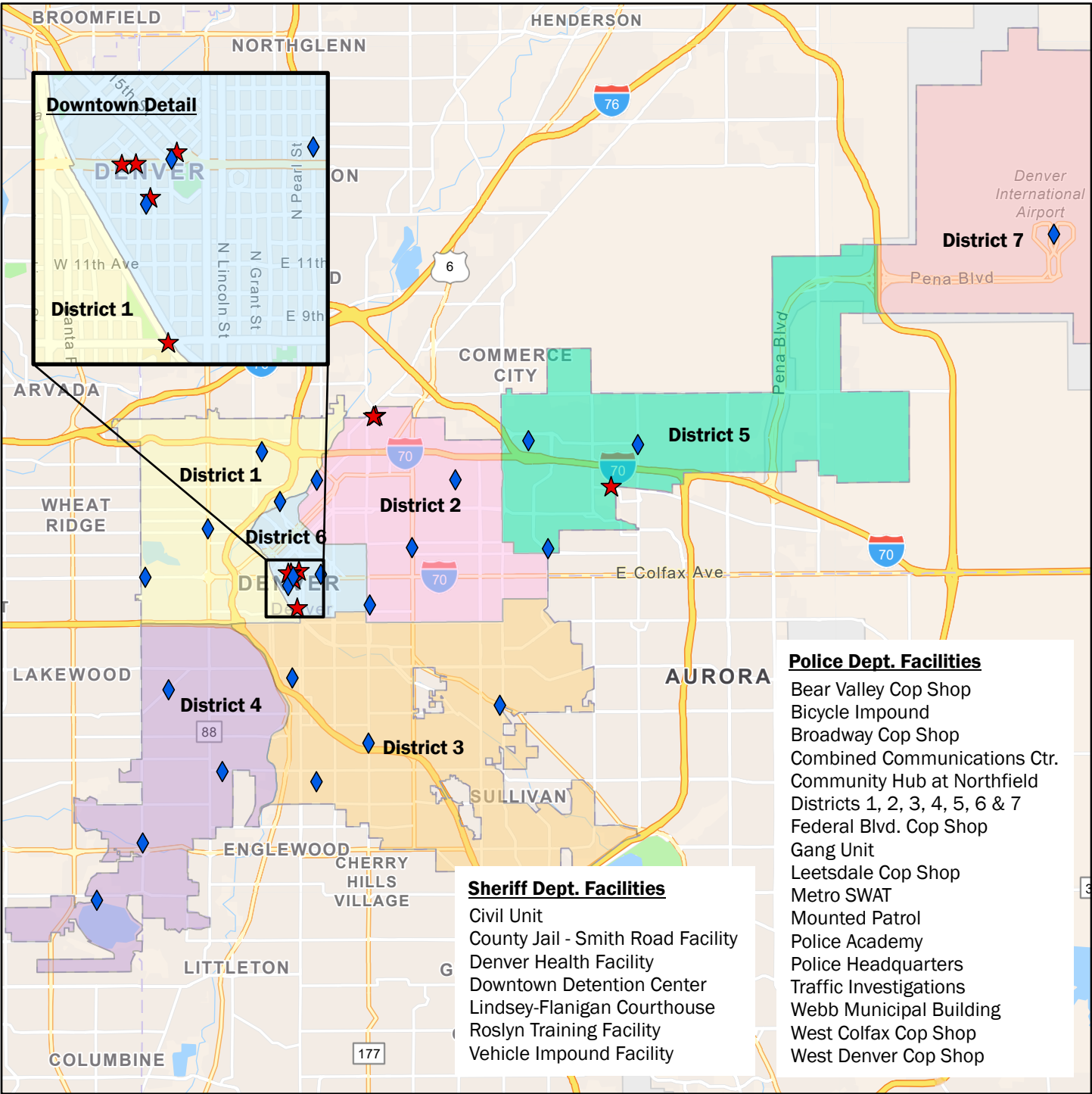
Q4 2019 | November 7, 2019 | 6:00 – 8:00 pm

New Hope Baptist Church | 3701 Colorado Blvd, Denver, CO 80205

Conversation on how misconduct is handled in the Denver Sheriff Department and new policies under consideration.

¹⁰ Denver Revised Municipal Code §2-34(a)

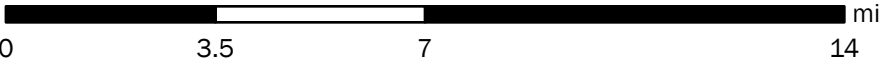
Location of Denver Police Department and Denver Sheriff Department Facilities



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- ◆ **Denver Police Dept. Facilities**
- ★ **Denver Sheriff Dept. Facilities**



Policy-Level Recommendations

Several issues were brought to the attention of the Board in 2019 by citizens and citizen groups. The following recommendations are based on the research, discussion, and stakeholder dialogue that followed and the acknowledgment of how these issues impact the relationship citizens have with law enforcement.

Improvements Needed in Data Collection

The collection and routine analysis of data around how individuals are processed at each point in the criminal justice system are critical in identifying and correcting racial disparities and other problematic trends in the justice system.¹¹ The City and County of Denver has made some strides towards addressing this challenge. For example, in 2018, the DPD rolled out a pilot initiative to begin collecting 34 pieces of demographic information—including race—on certain stops conducted by DPD officers.¹² This initiative, known as Stop Data Collection, is now in place city-wide.¹³

However, deficiencies in data collection at other points in the system persist, limiting the ability to conduct comprehensive analyses of potentially disparate treatment of community members. On September 20, 2019, two community members approached the COB at a public meeting expressing concerns that arrestees who do not have the resources to hire private attorneys might be more likely to accept plea deals, even if not guilty, than those who can afford private representation. While the COB was looking into this issue, the Denver District Attorney's office (DA) announced an initiative to analyze felony filings to look for racial bias patterns in charging decisions and plea deal offerings.¹⁴ The Board recognizes this initiative as a good first step and looks to the DA to continue improving their data collection systems and analysis and to provide transparent reporting of the findings on a regular basis.

The COB identified gaps in data collected by the DSD as well.¹⁵ In 2019, the COB requested data on the use of, and issues with, the Securus video visitation system used by community members to visit DSD inmates, that data is still outstanding. In December 2019, the DSD's Public Integrity Division (PID) announced that it failed to keep a "Brady list," a list of officers who have lied or otherwise had their integrity called into question. Such lists are routinely kept by law enforcement agencies because they may affect the outcomes of criminal cases in which those officers testify. In response, the EDOS

¹¹ See, e.g., The Vera Institute of Justice, *An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System*, May 2018.

¹² Allison Sherry, *Denver PD Is Using Data To Discover If Officers Carry Implicit Biases With Them Into The Field*, CPR NEWS, Aug. 17, 2018.

¹³ Denver Police Department Operations Manual §118.00, Biased Policing and Criminal Intelligence Information.

¹⁴ Elise Shmelzer, *Denver District Attorney's Office to examine past cases for potential racial bias as McCann aligns herself with national prosecutor reform movement*, THE DENVER POST, August 19, 2019.

¹⁵ DSD data collection has long been criticized as being deficient. For example, in its 2015 review of the DSD, outside consultants found that "the DSD needs to find better ways to collect reliable data and use that data to analyze and audit uses of force and other issues." See Hilliard Heintze, *New Vision, Brighter Future: The Denver Sheriff Department* (2015).

announced that the PID would review “thousands of Internal Affairs files dating back several years” and would release a list of those found not credible in the first quarter of 2020.¹⁶

Recommendation: The COB recommends that all local safety agencies conduct a critical examination of their data collection practices to assess whether they are collecting adequate information to identify and address potential racial disparities and other problematic patterns in their policies and practices. The Board commends those agencies that have already initiated that important work.

DPD Show-Up Identifications

A show-up identification is a one-on-one identification procedure most often used immediately after a criminal event, where a suspect is apprehended and detained at, or a short distance from, a crime scene.¹⁷ Eyewitness identifications are important tools that help police identify suspects of crime, and they can be critical in both obtaining convictions and quickly exonerating the innocent. However, they can sometimes be unreliable, resulting in wrongful convictions and the loss of liberty of innocent persons. To address these issues, in 1999, the National Institute of Justice authored a report by a working group of leading practitioners and experts to provide guidance on best practices in eyewitness identification procedures.¹⁸

That report acknowledged the potential of one type of eyewitness identification method, commonly referred to as show-up(s), in which a single suspect is displayed to one or more witnesses, to bias the witnesses by being overly suggestive. It recommended a number of safeguards against biasing witnesses including cautioning the witness that the person in the lineup may not be the actual perpetrator and recording complete and accurate records of each show-up.¹⁹

In July 2019, community members approached the COB with concerns about the DPD’s show-up policy and practices after one community member’s minor child was detained as a result of a show-up. The COB requested information from the DPD and received a data report and a copy of the DPD’s policy.²⁰ While the policy requires documentation of the process it provided little specific guidance on procedural safeguards that DPD officers should employ to avoid erroneous eyewitness identifications or bias. In response to community concerns, the DPD met on more than one occasion with Together Colorado and other stakeholders to revise their policy. A final draft is expected to be circulated to the COB and OIM in early 2020. The COB commends DPD Chief Pazen’s willingness to meet with concerned citizens and community groups to discuss the DPD’s policy and to make changes.

Recommendation: The COB recommends that the DPD continue to work with these groups, as well as the COB, to finalize a policy that safeguards innocent community members from being wrongly identified as the perpetrator of a crime and protects the city from the risk inherent in any misidentification.

¹⁶ Elise Schmelzer, *The Denver Sheriff Department has not kept required list of untruthful deputies; review underway*, THE DENVER POST, Dec. 10, 2019.

¹⁷ Denver Police Department Operations Manual §104.00 (2), Arrests.

¹⁸ National Institute of Justice, *Eye Witness Evidence: A Guide for Law Enforcement*, 1999.

¹⁹ National Institute of Justice, *Eye Witness Evidence: A Guide for Law Enforcement*, 1999, 27-28.

²⁰ Denver Police Department Operations Manual §301.00, Criminal Investigations.

Proposed Changes to the DSD's Public Integrity Division Policies

In 2019, the Department of Safety convened a fifteen-member Executive Advisory Board (EAB) to advise on policies and procedures of its new Public Integrity Division's (PID) Administrative Investigations Unit and Conduct Review Unit (AIU and CRU, respectively). As part of this process, the Department of Safety has proposed changes to policy and practice related to the handling of alleged rule violations by DSD sworn staff.

During a public forum hosted by the COB, the proposed policy changes were discussed by a panel that included members of the EAB.²¹ The COB is concerned that while the PID policies are in development, there may be a lack of synchronization between policy and practice. As discussed at the public forum, a proposed draft policy states that certain rules violations could be handled as performance issues and investigated by supervisors rather than investigated by AIU with oversight from the OIM. The COB agrees that less serious rule violations such as lateness to work and failing to fill out paperwork requesting leave are appropriate to be handled by supervisors and do not require a full investigation by the AIU. However, the proposed policy changes give broad discretion to supervisors to make this determination on several potentially serious rule violations, including erroneous release of an inmate, full attention to duties, interfering with the grievance process, failure to report accurately, failure to make required rounds, and failure to supervise, a violation with which several of the officers involved in the investigation into the 2015 death of inmate Michael Marshall were charged.²²

Recommendation: The COB recommends that the PID policy adopted by the EDOS limit the number of rule violations that are handled by supervisors as performance issues to only those that are agreed upon unanimously by the Executive Advisory Board. Potentially serious allegations such as full attention to duties and failure to supervise (among others) should be required to go through the full investigatory review process, including oversight from the OIM.

Second, PID is proposing to remove the oversight provided by the OIM when the AIU makes determinations as to whether to decline cases for full investigations. Under current policy, if the AIU determines after an initial investigation that a complaint does not require a full investigation, it could decline a complaint, but only with the consent of the OIM. The new PID policy proposes that the AIU has the authority to decline a complaint even if the OIM disagrees.

Recommendation: To ensure that AIU investigations are thorough and complete, the current policy, which requires the OIM's consent to decline a complaint for further investigation, should remain unchanged.

Third, when the AIU completes an investigation, it is forwarded to the CRU, which makes recommendations to the EDOS about disciplinary outcomes for each deputy involved in a complaint. Many city agencies, including the OIM, the Sheriff, and the City Attorney's Office, attend those meetings and can make disciplinary recommendations as well. The COB believes members of the community

²¹ Denver 8, Special Broadcast: Citizen Oversight Board Quarterly Public Forum, November 7, 2019.

²² See City and County of Denver, Office of the Independent Monitor, THE DEATH OF MICHAEL MARSHALL, AN INDEPENDENT REVIEW, March 2018.

should be present in those disciplinary meetings.²³ As such, the COB has requested the EDOS include citizen representation in meetings about disciplinary outcomes, and that request is under consideration.

Recommendation: The COB recommends that, in the spirit of transparency, a citizen or representative member of the COB be included as the citizen representative in meetings regarding disciplinary outcomes for DSD staff who have committed misconduct and are awaiting a disciplinary decision.

Other Notable COB Activity

Contact Visitation Committee

Members of the COB attended meetings with DSD staff to better understand the development of a pilot program and draft policies for in-person visitation at the Denver County Jail. Current visitation policies limit inmates to video-visitation. In a meeting with former Denver Sheriff, Patrick Firman, on July 19, 2019 discussion of video-visitation acknowledged some of the challenges. Issues brought to the attention of the Board including scheduling, fees paid by family members and disconnection issues. The renovation of Building 24 at the county jail on Smith Road, which will serve as the new complex for female inmates,²⁴ is an opportunity for DSD to improve their visitation policy and add contact-visitation, in-line with national best practices²⁵ and the Board urges DSD to do so.

National Association for Civilian Oversight in Law Enforcement

As in previous years, COB members were actively involved with the National Association for Civilian Oversight in Law Enforcement (NACOLE). In late September of 2019, several COB members attended NACOLE's annual conference in Detroit, Michigan. The conference marked 25 years of this professional development program, with three programming tracks to address challenges in oversight of law enforcement, national best practices, legal issues, and more.²⁶

COB Lunch & Learn with City Council

Following the 2019 election cycle, five new members were sworn into seats on the Denver City Council.²⁷ To give these new members an introduction to oversight in Denver, members of the COB spent an hour in conversation with city council members to answer questions and provide background on the operation of oversight in Denver and how the OIM and COB interact with citizens and various other departments and agencies to meet their oversight obligations as defined by ordinance.

²³ Denver Revised Municipal Code 2-383(c).

²⁴ Sara Fleming, *Female Inmates in Denver May Finally Get Building With "Humane Environment"*, WESTWORD, September 27, 2019 | 5:09AM.

²⁵ Turanovic, Jillian & Tasca, Melinda. (2017). Inmates' Experiences with Prison Visitation. JUSTICE QUARTERLY. 10.1080/07418825.2017.1385826.

²⁶ 2019 Annual NACOLE Conference, https://www.nacole.org/2019_annual_nacole_conference.

²⁷ David Sachs, *Meet your new Denver City Council members and the change in political calculus they bring*, DENVERITE, June 6, 2019.

Nominating Committee Confirmed by Mayor and City Council

The ordinance changes made in February of 2019 called for additional board members to be vetted through a nominating committee to recommend applicants for appointment to the Board by the Mayor and City Council. Thank you to members of this committee for their work, Denise (Dede) de Percin, Arash Jahanian, and Reverend Dr. Katherine Farley. Individuals interested in serving on the COB can apply [online](#).

2020 Preliminary Citizen Oversight Board Meeting Schedule

Bimonthly meetings are held from 10:00 AM – 12:00 PM at the OIM, Denver Post Building, 101 W. Colfax Avenue, Suite 100, Denver, CO 80202. Please always check the website at Denvergov.org before attending, as schedules can change. We recommend allowing an additional five minutes to check in with building security.

Q1 2020 (January – March)

Friday, January 3rd

Friday, January 17th

Friday, February 7th (canceled – weather)

Friday, February 21st – DPD, Chief Pazen

Friday, March 6th – DOS, Executive Director

Friday, March 20th – DSD, Interim Sheriff Gomez

Thursday, March 26th, 6:30 pm – Public Forum in DPD District 4

Q2 2020 (April - June)

Friday, April 3rd

Friday, April 17th – DPD, Chief Pazen

Friday, May 1st

Friday, May 15th – DOS, Executive Director

Friday, June 5th

Friday, June 19th – DSD, Sheriff

Q3 2020 (July – September)

Friday, July 3rd – HOLIDAY

Friday, July 17th

Friday, August 7th – DPD, Chief Pazen

Friday, August 21st – DOS, Executive Director

Friday, September 4th

Friday, September 18th – DSD, Sheriff

Q4 2020 (October - December)

Friday, October 2nd

Friday, October 16th – DOS, Executive Director

Friday, November 6th

Friday, November 20th – DPD, Chief Pazen

Friday, December 4th – DSD, Sheriff

Friday, December 18th