

CITIZEN OVERSIGHT BOARD ANNUAL REPORT

I. INTRODUCTION – The Beginning

A. The Office of the Independent Monitor

In 2004, the City and County of Denver created a new system for investigating possible misconduct by law enforcement officers and imposing discipline on officers who engage in misconduct. The new system included the creation of two civilian agencies: the Office of the Independent Monitor (OIM) and the Citizen Oversight Board (COB).

The OIM's duties include: 1) actively monitoring the Police Department and Sheriff Department internal investigations to ensure they are thorough and impartial; 2) making recommendations to the Police and Sheriff Departments and Manager of Safety on whether officers have violated departmental policies and, if so, the appropriate level of discipline; and 3) reporting on an annual and on-going basis to the Mayor, City Council and the public on internal investigation and disciplinary processes and recommendations for improving those processes.

The OIM is also obligated to regularly report to the COB on the status of police, sheriff, and fire department investigations and disciplinary proceedings. The OIM is also required to inform the COB of OIM's actions in monitoring the investigations and disciplinary proceedings.

The OIM's jurisdiction is limited by ordinance. The OIM focuses primarily on uniformed personnel: (1) who are involved in duty-related incidents that result in serious-bodily injury or death (Police, Sheriff & Fire); (2) who are charged with felonies or certain other crimes (Police & Sheriff); (3) against whom various citizen complaints are brought (Police & Sheriff); and (4) of which the Citizen Oversight Board or Manager of Safety request the Monitor's involvement (Police, Sheriff & Fire).

The OIM's jurisdiction is particularly limited with respect to the Fire Department. The OIM may only monitor internal investigations of certain types of incidents involving armed arson investigators.

B. The Citizen Oversight Board

The COB's function is to assess and evaluate the OIM and to report that assessment to the Mayor, City Council, and the public. By ordinance, the COB must: 1) assess the OIM's effectiveness; 2) make policy-level recommendations regarding 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 board, the monitor, the manager of safety, the chief of police, the director of corrections, or the fire chief; 4) make recommendations as to specific cases; and 5) exercise such other powers and duties as set forth in the ordinance.

The COB's bylaws state that its mission "is to improve the fundamental relationships between the community and law enforcement and to assess the effectiveness of the [OIM]." The COB's mission is directed toward ensuring that the OIM creates a more accountable and transparent system, which, in turn, will ensure public confidence in the oversight system and the rules that govern it.

The COB consists of seven citizens appointed by the Mayor and confirmed by City Council. The Members of the 2006 COB were:

Joseph Sandoval, Chair: Professor Sandoval is chair of the criminal justice and criminology department at Metropolitan State College of Denver, where he has worked since 1973. He spent six years as an officer with the Arvada Police Department and is a licensed attorney. Professor Sandoval served on the Mayor's Police Task Force in 2004, the Public Safety Review Commission from 1993 to 2001 and has served on the board of the National Association for Civilian Oversight of Law Enforcement.

E. Henry "Hank" Knoche, Vice-Chair: Mr. Knoche served two tours of active duty in the Navy in World War II and Korea before joining the Central Intelligence Agency (CIA) in 1953 and retired in 1977 after serving as Deputy CIA Director under President Gerald Ford and Acting Director under President Jimmy Carter. He received the President's Award for Distinguished Federal Service in 1977.

David Montez, Secretary: David Montez is a research development coordinator at the University of Colorado at Denver and Health Sciences Center. Montez has served on the Denver Public Safety Review Commission. He is a 2004 Leadership Denver graduate, a former member of the Mayor's GLBT Commission, a former advisory member of the El Futuro Gay Community Center, and chair of the Denver Center for the Performing Arts Community Relations Council.

Pastor Paul Burleson: Pastor Burleson is the president of the Greater Metro Denver Ministerial Alliance. He founded Denver's Friendship Baptist Church of Christ Jesus in 1974 and continues to serve as its pastor. A former dean of the United Theological Seminary's Denver Extension, Pastor Burleson is experienced in the prevention, identification, and counseling of individuals and families with substance abuse and other at-risk behaviors.

Rabbi Steven Foster: Rabbi Foster is the Senior Rabbi at Congregation Emanuel, where he has served for nearly 37 years. He is a former board member of the American Civil Liberties Union, the Colorado State Civil Rights Commission (which he chaired), the Denver District Attorney's Advisory Committee, and a number of other secular and religious organizations. He currently serves on the executive committee of the United Jewish Communities Rabbinic Cabinet and on the Board of Planned Parenthood.

Cathy Reynolds: Ms. Reynolds served on the Denver City Council as an at large member for 28 years, and was Chair of the Urban Drainage and Flood Control District for more than 20 years. She held the position of City Council President five times during her tenure. Ms. Reynolds currently serves on the board of the Convention Center Hotel Authority and the Phoenix Concept, which provides residential mental health and substance abuse services.

Tawanna Mullins: Ms. Mullins currently serves as chief executive officer of T. Mullins and Associates, a training and organizational development consulting company that provides support services for human resources professionals. She also holds adjunct faculty positions at the University of Denver, Regis University and John & Wales University. Consulting for clients such as Oakwood Homes, Qwest, AT&T Broadband, Columbia Healthcare and Denver Water, she has designed and facilitated training classes on a number of topics including conflict resolution, cultural diversity and organizational change.

As of this writing, Mayor Hickenlooper appointed Anthony Navarro to the COB to replace Professor Sandoval, whose term on the board had expired.

Anthony Navarro: Mr. Navarro is an attorney with the Denver law firm of Holland and Hart, where he practices commercial litigation in appellate and trial courts. He served for six years as an Assistant Attorney General in the Colorado Attorney General's Office, where he participated in both criminal appeals and consumer protection enforcement. Before joining the Attorney General's Office, Mr. Navarro was a law clerk for Justice Alex Martinez of the Colorado Supreme Court. He currently serves on the Colorado Bar Association's Board of Governors, the Colorado Hispanic Bar Association's Board of Directors, and the Denver County Court Judicial Discipline Commission.

The COB is directed to prepare an annual report and furnish it concurrently with the OIM's annual report to the Mayor, the public, and City Council. This is the COB's second annual report and reports on its 2006 activities and its assessment of the OIM's work and progress in 2006.

C. The COB's 2006 Activities

As required by the ordinance, the COB conducts regularly scheduled meetings that are largely open to the public. At this time, it meets twice a month, on the 2nd and 4th Friday beginning at 10:00 a.m. at its offices located on the 12th Floor of the Webb Building. The COB routinely receives a report from the OIM, which generally includes a discussion of general office keeping matters, upcoming budgetary matters, and the status of complaint-handling and internal investigations within the safety departments. Complaint handling and matters related to discipline and internal investigations are confidential and are therefore discussed during the COB's executive session.

Also at the COB's regularly scheduled meetings, the COB often meets with managers or other key personnel from the safety departments to discuss ongoing issues and matters of interest. Manager of Safety Al LaCabe, Police Chief Gerry Whitman, Fire Chief Larry Trujillo and Director of Corrections Lovingier met with the COB in 2006.

In 2006, as mandated by ordinance, the COB held four quarterly public meetings. The meetings were held in different sectors of the City in order to gather input from all parts of the City. The COB met downtown at City Council chambers, at Montbello High School in Northeast Denver, at College View Recreation Center in southwest Denver, and at Denver's Temple Sinai in southeast Denver. All the meetings are recorded and later televised by Denver's Channel 8.

The quarterly public meetings were attended by City Council members, other city officials, police officers, and sheriff deputies. The topics discussed at the public meetings included the status of crime, mediation between complainants and law enforcement officers and other work being performed by the OIM.

In each public meeting, the COB hopes to bring focus to certain topics which may be of particular concern to a particular sector of the City or to the public generally. For example, at the meeting at Montbello High School, the COB opened for discussion "racial profiling" and representatives of DPD showcased a new police department interactive training video it now uses within the Department to heighten the sensitivity of police officers to public perceptions of racial biases in their actions and reactions. Overall, the COB felt the interactive video was well received by those members of the public present at the meeting.

The topic at the COB's November meeting was diversity recruiting and hiring in the police, fire and sheriff departments. Manager of Safety LaCabe, Police Chief Whitman, Director of Corrections Lovingier, Civil Service Executive Director Peterson and Career Service Authority Director Cordova spoke to the public. Diversity hiring in the fire department was noted as a special area of concern.

At its public meeting in August, the COB took comment on the experimental "broken windows" concept carried out by police in the Westwood area. Although crime was reduced in the Westwood area, certain citizens at the meeting expressed concern that heightened police activity in one neighborhood may displace disorderly activity to other neighborhoods nearby. The COB discussed this concern with the Chief of Police at a later meeting and the Chief assured the COB that the Department has taken steps to address this concern.

Finally, the COB learned that certain members of the public are unable to review the COB's work simply because the annual report is only available on the internet and not everyone has access to the internet. As a result, this year's annual report will be available in hard copy at the Denver Public Library.

As the police department proceeds with reforms and new policies with respect to internal disciplinary processes and personnel assessment, the COB has told the Manager of Safety it hopes he will appoint a special assistant to insure good, continuing communications with all levels of his department and with the public. The Manager has taken this under advisement.

During 2006, a member of the Board participated in the important work of three City task forces. One task force was chaired by the Manager of Safety and was charged with structuring a new disciplinary process within the police department. Another task force was chaired by the Chief of Police and is aimed at devising a new personnel assessment program that will help identify police department top performers and those in need of advice or counseling in improving their performance. The work of these task forces has been concluded but a final working policy is not yet in hand. The third task force, chaired jointly by a member of City Council and a representative from the Mayor's Office, is working on recommendations to improve diversity recruiting and hiring in the safety departments.

Two Board members and Monitor Rosenthal attended the annual convention of NACOLE, the National Association of Citizen Oversight of Law Enforcement. There they heard insightful lectures from experts and exchanged views with attendees from across the nation about "best practices" worthy of application in Denver.

II. OIM'S GOALS AND PROGRESS

A. The OIM's Stated Goals

At the outset of 2006, the OIM articulated the following goals for the year:

- Publish a report on DPD officer involved shooting investigations and deadly force policies;
- Establish an OIM citizen-police mediation program as the largest per-capita program in the country;
- Assist the DPD and the DSD in implementing a new *Early Intervention System*;
- Create and post quarterly reports on the OIM's website on DPD and DSD complaint statistics and imposition of discipline;
- Increase officer and citizen satisfaction with the complaint handling and disciplinary process through mediation, more specific disposition letters and improving the timeliness in the handling of citizen complaints; and
- Increase the timeliness of DPD internal investigations, assignments and the imposition of discipline.

B. OIM's Progress

1. OIM's Study of DPS's Deadly Force Policies

In 2005, OIM entered into a contract with the Police Assessment Resource Center (PARC) to conduct a review of DPD's deadly force policies and investigations. The contract contemplated a report from PARC in September, 2006. However, to no fault of its own, PARC was not able to gather the information it needed until late 2006. As a result, PARC's review of the relevant policies and publication of a report of PARC's analysis will not be complete until mid-year 2007.

The COB looks forward to the PARC study and will likely discuss it more detail at one of its quarterly meetings in 2007.

2. Creating a Citizen-Police Mediation Program

Forty-four police officer – citizen mediations have taken place since the OIM established the Mediation Program in November 2005. All but four of these mediations took place in 2006.

According to the OIM, the program is now the largest mediation program of its kind per capita in the United States. Moreover, the OIM reports that those that have attended the mediations and successfully completed them are generally satisfied with the process, especially when compared to the process through the Internal Affairs Bureau.

The COB sees great promise in the mediation program. With only forty-four (44) mediations between citizen complainants and police officers taking place in the first 15 months since its inception, it is a bit early to render it a success. So far, there is a showing of considerable satisfaction among those that have participated in the program. As the program grows and matures, the COB will be able to sharpen its analysis of it.

Mediation is a course to be pursued when the complainant and the officer both agree to participate in it and it is best applied in cases where the complaint involves some degree of discourtesy. The COB cautions against mediation in cases where the complaint involves some form of use of force by the officers. These cases are best left to investigation and application of the disciplinary review process. The COB will continue to have this mediation program under review.

3. Assist in Implementing an Early Intervention System

A new early intervention policy was developed toward the end of 2006 and distributed to DPD personnel. The “old” program was in effect beginning in 2004 and was referred to as an Early Identification and Intervention System (EIIS). The program involved a lot of data collection on police officers. Specifically, the system tracked arrests, training, education, uses of forces, leave and overtime, traffic collisions, pursuits and secondary employment, civil liability information, commendations and complaints. The data was intended to provide the department with the information it needed to trigger “Intervention Reviews”.

Eventually, the Chief of DPD terminated the EIIS program. The data collected pursuant to the program, according to the Chief, was simply too discretionary and broad to be of any real use. As a result, during 2006, OIM worked with DPD, union representatives and the COB to create a new program.

The policy created is known as the Personnel Assessment System (PAS), which relies on first-line supervisors to evaluate their subordinates and identify, advise and counsel potential problematic behavior and report to command staff. Also, in reviewing officers who may exhibit potential problematic behavior, the policy dictates that the review will be based on comparisons between similarly situated officers. In other words, officers who are active would expect to have more uses of force or complaints against them than officers who are less active. The old EIIS program did not take this “similarly situated” concept into the account. Finally, the PAS system has in place a PAS board, which will meet on a quarterly basis to evaluate the new program.

The COB views this program as a major reform within the current system. The COB is heartened by the amount of effort DPD expended in creating an improved system within the Department. Deliberations leading to the development of the new PAS system had the benefit of participation by the police union, the rank and file, the OIM and the COB.

4. Quarterly Reporting of DPD and DSD Complaint Statistics and Related Discipline

According to the OIM, at the end of 2006, the OIM created a new report tracking the discipline imposed in various cases. The report, according to the OIM, includes the officer's rank, a description of the conduct found to have been committed and the discipline that was imposed. The report is prepared on a monthly basis and is available on the OIM's website.

The report, without doubt, contains very useful information. The COB commends this OIM accomplishment for 2006.

5. Increasing Satisfaction With the Complaint Handling Process

In 2006, the OIM facilitated the creation of a survey to be given to both officers and complainants asking for input on their satisfaction with the complaint handling process. The complaint handling process is largely composed of the mediation program initiated by the OIM and the discipline that results from the complaint handling process.

Overall, the OIM reports that both officers and complainants seem satisfied with the new procedures. However, as the OIM points out, not all complainants completed a survey. The COB believes that more survey results are needed before conclusions regarding the efficacy of the program can be reached.

6. Increasing the Timeliness of Handling DPD Internal Investigations

According to the OIM, the average number of days it takes to handle a DPD complaint through the IAB process decreased by 10% in 2006. The command review process for making findings on formal complaints also improved in 2006. Nonetheless, there remain problems with the timeliness of the disciplinary review process.

From the COB's perspective, more needs to be done to improve timeliness particularly in the area of reaching actual decisions on discipline. The COB underscores that it does not wish to foreshorten the time it truly takes for a thorough and thoughtful investigation particularly in critical cases. However, resolving complaints and investigations in a timely fashion is key to improving accountability to the public. To this end, in 2006, the COB recommended that the OIM support a policy whereby complainants are informed of the status of their complaint as their complaint goes through the process rather than waiting until the end of the process to communicate with complainants.

The COB is especially concerned at the delay it sees in the Manager of Safety's office. This office is responsible for completing the process and informing the public of its decisions in officer-involved shootings leading to injury or death. The COB will continue to impress upon the Manager of Safety the importance of completing the process and informing the public of its decisions. The COB supports and commends the OIM's hard work and diligence in this area.

III. THE COB'S 2006 OBJECTIVES AND GOALS FOR OIM

In its Report for 2005, the COB outlined various goals for itself and the OIM for 2006. They were as follows: 1) timeliness with respect to the investigation of officer-involved shootings; 2) reporting to the COB and the public in a user friendly manner the status of ongoing complaints and investigations; 3) reviewing and, if needed, offering suggestions for improvement of use of force policies; 4) reviewing and, if needed, offering suggestions for improvement of internal policies and training on racial profiling; and 5) reviewing and bringing to ultimate resolution matters left over from the Public Safety Review Commission ("PSRC").

Many of these goals and objectives have been addressed in other parts of this Report and will not be repeated here.

A. Policies Regarding Racial Profiling/Bias Policing

The COB articulated its concern for racial or other types of biased profiling by police officers as an area of major concern. Our review of this topic reveals significant difficulties in articulating the problem and recommending suggested solutions.

There is a public perception, particularly among minorities, that a number of officers practice racial profiling (sometimes referred to as "biased policing") in traffic stops and street challenges. The officers are quick to cite no bias or profiling whatsoever and cite non-racially motivated reasons supporting their actions. Resolution of these two divergent views is complex and difficult, if possible at all.

The COB has been informed of a training program underway at the Police Academy that is intended to increase police officer sensitivity to this issue. In time, the COB expects this training to bear fruit. However, the COB notes that certain experts in the field have noted that training is only part of a larger more comprehensive program to create wider public understanding.

In addition, the COB hopes the OIM's mediation program will shed some light on this awareness. If nothing else, the mediation process provides the opportunity for the full venting of views and perceptions and this in turn may broaden understanding on both sides. Finally, in the OIM's attempt to improve data collection, it has now asked the DPD internal affairs process to request information regarding race. This may help in assessing the extent and depth of the profiling issue.

B. PSRC Matters

At this time, the COB is pleased to report that all matters outstanding from the PSRC were resolved in 2006.

IV. 2007 OBJECTIVES

In 2007, as directed by ordinance, the COB will continue to assess the OIM's policies and procedures and, in particular, those discussed in this Report. Specifically, the COB awaits the conclusion and presentation of the PARC study, which is anticipated sometime mid-year 2007. The COB's objective in this regard is to have the study completed and discussions initiated on next steps.

In addition, the COB awaits further analysis and survey of the mediation process. The program is in its infancy and, as a result, it is too early to render it a "success". As the COB understands, the OIM is contemplating more surveys of the program in 2007 and the COB will review and scrutinize those survey results. The COB's objective is to have a deeper understanding of the mediation process and its results.

On a related note, the COB wishes to underscore the importance of timely disposition of all complaints within DPD and DSD. We again applaud the OIM's efforts in this area to date and the COB will continue to monitor DPD, DSD and the Manager of Safety's improvement in this regard in 2007.

The PAS is a bold and worthy reform within DPD. As DPD embarks on this reform and others, the COB expressed its hope to the Manager of Safety that DPD will rely on a special assistant who can insure good and continuing communications within all level of DPD. The COB understands that the Manager of Safety is considering such assistance. In 2006, the COB will be watchful of the entire PAS and its progress.

Finally, the COB encourages the OIM to be diligent and ever so mindful of DPD and DSD's work on the issue of racial profiling. The COB will keep abreast of the Police Academy's training program and all other policies and procedures developed by the safety departments.

V. SUMMARY AND CONCLUSION

The COB is encouraged by the developments over the past year. Police morale and effectiveness have improved. The latest crime statistics show a favorable trend (though some sectors remain a problem).

Some of the developments over the past year include the task force led by the Chief of Police that developed the PAS, which is aimed at a greater supervisory role in providing advice and counsel to officers whose performance needs improvement.

In addition, the Manager of Safety assembled a task force designed to create a new disciplinary review process within DPD. The COB anticipates that this review process will prove to be a significant reform. We encourage the DSD to commence a similar review process.

The DSD underwent a transition of leadership in 2006 and it appears to have taken place without a hitch.

In 2007, DPD, DSD and the Manager of Safety will continue planning for the City's new Justice Center, which is set to open in 2009. The COB has asked the OIM to take an active role in relevant parts of the planning. For example, the COB has asked the OIM to review the practices and procedures of jail guards and determine how they will be put into place in the new Justice Center.

To date, the COB maintains close and frequent contact with the OIM. The OIM reports to the COB on a regular basis and the COB provides the OIM with recommendations as that office carries out its day-to-day activities. The one area of concern that the COB hopes will be corrected in 2007 is in regards to the voluminous amount of data we receive from the OIM. We know that this data is of use to the OIM as it carries out its duties. But the sheer volume makes it difficult for the COB, working without staff, to digest the data and make ready use of it. We will continue to work with the OIM to make improvements.

The COB considers itself the eyes and ears of the Denver public in regard to oversight of the law enforcement practices in the City. In general, the public can take satisfaction in those practices. The complaint process has improved and is working and the COB encourages even more improvement in 2007. The COB will continue to press for timeliness in investigations and decision making in citizen initiated complaints. All leaders in the law enforcement community, including the Manager of Safety, the Chief of Police, the Director of Corrections, the Fire Chief and the OIM, have been working cooperatively with each other and have been responsive to COB inquiries and suggestions. In 2007, the COB will work to keep it that way.