2011 Citizen Oversight Board Members

The Citizen Oversight Board (referred to variously as the COB or the Board) is comprised of seven volunteers, citizens of Denver, appointed by the Mayor and confirmed by the Denver City Council. In 2011 the members of the Board were:

**Dr. Mary Davis, Chair** – Dr. Davis is a business consultant who has been actively involved in community improvement activities in Denver for decades. She has served on five nonprofit boards; having been elected Board Chair for two of these. She joined the COB in February 2009.

**Jeff Walsh, Vice Chair** – Mr. Walsh is an attorney with an extensive background in criminal defense. Before going into private practice, he represented indigent defendants for five years as a deputy public defender with the Colorado State Public Defender’s Office. Mr. Walsh is also a board member of KIPP Colorado, a network of Denver Charter schools that serves at risk youth. He joined the Board in 2010.

**Pastor Paul Burleson** – Pastor Burleson is the pastor of Friendship Baptist Church of Christ Jesus and Vice-president of the Greater Metro Denver Ministerial Alliance. He also served with the US Air Force in Korea. He has been on the Board since its 2005 beginning.

**Rabbi Steven Foster** – Rabbi Foster retired in June of 2010 as the Senior Rabbi of Denver’s Congregation Emanuel, having served the congregation for 40 years. He has been on the Board since 2005.

**Nita Gonzales** – Ms. Gonzales is a long-standing community leader and educator who is President/CEO of the non-profit Escuela Tlatelolco and former Director of Operations at Servicios de La Raza. She is also a founding and current Board member of Colorado Latino Forum. She was appointed to the Board in 2011.

**Carmen Messina-Velasquez** – Ms. Velasquez has over thirty years experience working in the fields of social work, community organization, youth and family advocacy, grant planning and administration, public safety, juvenile justice, and community colleges. She retired from the State in 2009 and is presently the owner and president of Stefano’s B.E.T. (Bringing Everyone Together) LLC, a small business located in Lower Downtown Denver. Stefano’s B.E.T. works with non-profits to build capacity and on resource development. She joined the Board in May of 2009.

**Cathy Reynolds** – Mrs. Reynolds was an at-large member of the Denver City Council for 28 years, five of those years presiding as Council President. She served as President of the National League of Cities and the Colorado Municipal League. She has been on the Board since its inception in 2005.

**Duties of the Citizen Oversight Board**

The 2004 City ordinance that created the Citizen Oversight Board and the Office of the Independent Monitor fixes the following three responsibilities for the Citizen Oversight Board:

1. To assess the effectiveness of the Monitor;

2. To issue policy recommendations concerning discipline, use of force, rules, hiring, training and the community relations of Denver Police, Denver Sheriff and certain Denver Fire Department personnel; and

3. To consider issues of concern to the community, stay informed regarding the complaint process, and make recommendations concerning specific cases reflected in complaints.

The Board has no command responsibilities with respect to law enforcement departments or personnel. It carries out its advisory duties in frequent meetings and consultations with the Monitor and members of the Safety Department. These meetings allow Board members to monitor confidential internal investigations and to make suggestions to improve departmental performance. From time to time, the Board also issues policy suggestions on matters of concern.
**How the COB Works**

As a rule, the COB meets twice a month in regular working sessions. The Board meets with the Manager of Safety, the Chief of Police, and the Director of Corrections at least quarterly, as well as others in law enforcement and the community. These meetings are helpful in educating the Board on current policies and activities. They also provide an opportunity to give law enforcement leaders COB feedback and suggestions. The Board also receives reports from the Office of the Independent Monitor and his staff. Meetings are open to the public, with the exception of executive sessions, to discuss ongoing investigations and other privileged matters. These meetings are generally held in the 12th floor conference room of the Webb Building at 10:00 a.m. on the first and third Fridays of the month.

The COB holds quarterly meetings in the evening in various locations around Denver. Public comments are encouraged. These meetings are taped by Channel 8 for broadcast over the ensuing weeks.

Agendas and minutes of all COB meetings are available at www.denvergov.org/cob.

**2011 Citizen Oversight Board Highlights**

A major concern in 2011 centered on how the continuing city budget crisis affected law enforcement. All three branches of the Safety Department were affected. With hard choices and concessions given, the Police Department remained at full strength, as did the Sheriff and Fire Departments. The COB received assurances that as further cuts are made, citizen security would be safeguarded first and foremost.

In 2008, the Manager of Safety and the Chief of Police, with the assistance of a large and able advisory group, developed new policies and procedures to deal with discipline within the Police Department. This is known as the Disciplinary Matrix. The matrix makes the basis for discipline clearer, fairer, and more consistent. In 2010, a parallel matrix was established for the Denver Sheriff Department. Director Wilson was a guest on a quarterly basis. A wide range of topics was discussed including training issues, a range of disciplinary policy issues, adopting and implementing the Disciplinary Matrix and issues related to the increasingly aging population of persons incarcerated in Denver’s facilities.

The Board remains convinced that routinely equipping patrol cars with audio and video equipment to record the details of interactions between police and citizens is a must for addressing allegations of racial profiling and other misconduct. It is our view that this would be an invaluable tool in Internal Affairs Bureau Investigations. The Board has seen significant value in video records in several important cases over the past several years. The COB strongly recommends this be a priority at the highest level. The Board also encourages the OIM and other City agencies to search out and apply for grant opportunities for this purpose, not to replace but to supplement the City’s commitment.

Board Chair Davis is the COB representative to the Manager of Safety Disciplinary Advisory Group Standing Committee for the Denver Police Department, comprised of staff from the Manager of Safety’s office, Denver Police Officers, and citizen representatives. The Committee has addressed a number of issues since its first meeting in October 2009.

An addendum to this report outlines pressing law enforcement issues summarized for the COB by Independent Richard Rosenthal as he departed from his position after six years of exemplary service in the position.
Board Meetings and Public Outreach

In 2011 Board met in business meetings twenty-four times, including four quarterly public forums. The Board also met with the Auditor’s staff regarding its performance audit of the COB and the OIM. The Chair also met with the Health, Safety, Education and Service Committee of Denver City Council to present the Annual Report and again as part of their review of the Safety Department. Board Chair Davis met with the Manager of Safety Disciplinary Advisory Group Standing Committee several times. Members of the Board attended various meetings in the community.

The Board met periodically throughout the year with the Manager of Safety, the Police Chief, the Director of Corrections, as well as others in the law enforcement community. These meetings took place during regular Board meetings and were open to the public unless confidential exchanges were involved. Discussions between Board members and officials at these meetings were productive and informative.

The Citizen Oversight Board’s Quarterly Meetings in 2011 were:

April 6, 2011
7:00 p.m. - 9:00 p.m.
Harvard Gulch Recreation Center, 550 E. Iliif Avenue
Manager of Safety Charles Garcia spoke about the mission of Denver’s Safety Departments. He laid out his priorities: 1) finalize high profile pending cases; 2) assess the process for discipline; 3) create a Disciplinary Matrix for the Fire Department; 4) deal with tightening budgets; and 5) collaborate with the community to improve policing. In the public comment section of the meeting, one person chose to speak.

June 16, 2011
7:00 p.m. - 8:30 p.m.
Green Valley Ranch Recreation Center, 4890 Argonne Way
Director of Corrections Gary Wilson discussed the DSD Disciplinary Matrix and Chief Eric Tade, Fire Chief discussed the DFD Disciplinary Advisory Group Process. Public comments followed these presentations.

September 15, 2011
6:00 p.m. - 7:45 p.m.
La Alma Lincoln Park Recreation Center, 1325 W. 11th Avenue
David Edinger, Chief Performance Officer of the Mayor’s Office, gave a status report of the search for a new police chief. Guest, Supreme Justice Alex Martinez, was introduced as the incoming Manager of Safety. Justice Martinez expressed his interest in keeping in touch with the community through meetings such as public forums. The remainder of the meeting was devoted to public comments.

December 15, 2011
7:00 p.m. - 8:30 p.m.
Temple Emanuel, 51 Grape Street
New Police Chief, Robert White, was welcomed and spoke briefly to the group about his philosophy about community involvement. The Board expressed its appreciation to Richard Rosenthal for his outstanding years of service as he departs to accept a similar oversight position in Canada. The remainder of the meeting was devoted to comments by members of the public.
The Independent Monitor Evaluation 2011

To evaluate the Independent Monitor’s performance, as in prior years, the Board issued two surveys. The surveys were “blind” to maintain anonymity. The survey of the OIM staff included 12 questions covering all aspects of the operation of the Office of the Independent Monitor. Every current employee participated in the survey. The survey was couched in positive questions. For example “Monitor promotes high levels of team performance.” The highest level, “strongly agree” was predominant in the replies. The opportunity for comments was available and a number were received. They offered good insight into OIM operation.

The COB also surveyed its members regarding the Monitor’s effectiveness in accomplishing the core functions of the OIM and about his relationships with others. Again, the results were strongly positive and the comments illuminating. The Board reviewed the surveys and held a lengthy internal discussion. The surveys and comments have given the Board the tools to work with the Monitor to further refine and improve the OIM function.

To further enhance our assessment process, the COB requested data on the workload of the OIM. The following information represents an extremely heavy workload for a very small staff.

In 2011, the Citizen Oversight Board spent a large amount of time in Executive Sessions in multiple meetings with Monitor Rosenthal reviewing a variety of pending disciplinary cases. In all of these discussions, Monitor Rosenthal was indispensable in gathering information and helping the Board understand it. The information gleaned in these sessions remains confidential under City and State laws and regulations.

It is the opinion of the Citizen Oversight Board that the Independent Monitor did an excellent job in carrying out the full range of its responsibilities. In 2011 he was hampered by vacancies and yet the OIM continued to handle a substantial and difficult caseload and perform with excellence. He worked tirelessly and well to monitor and improve the Police and Sheriff Departments and to ensure each complaint, and any attendant discipline, was dealt with promptly and appropriately. The COB believes Monitor Rosenthal was an agent for positive change throughout his tenure as Denver’s first Independent Monitor. In December, Rosenthal announced that he had accepted a similar position in Canada.
## A. Complaint Monitoring Workload 2011

<table>
<thead>
<tr>
<th>1. Denver Police</th>
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<tbody>
<tr>
<td>a. Number of Citizen-Internal Complaints</td>
<td>566</td>
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<tr>
<td>b. Declined Cases Reviewed</td>
<td>391</td>
</tr>
<tr>
<td>c. Informals/Service Complaints Reviewed</td>
<td>78</td>
</tr>
<tr>
<td>d. Actively Monitored Investigations</td>
<td>69</td>
</tr>
<tr>
<td>e. Completed Formal Investigations Reviewed</td>
<td>111</td>
</tr>
<tr>
<td>f. Sustained Findings/Discipline Monitored and Reviewed</td>
<td>122</td>
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<tr>
<td>g. Completed Mediations</td>
<td>53</td>
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<tr>
<th>2. Denver Sheriff</th>
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<tbody>
<tr>
<td>a. Number of Citizen-Inmate-Internal Complaints</td>
<td>374</td>
</tr>
<tr>
<td>b. Declined Cases Reviewed</td>
<td>44</td>
</tr>
<tr>
<td>c. Service Complaints Reviewed</td>
<td>57</td>
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<tr>
<td>d. Actively Monitored Investigations</td>
<td>49</td>
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<tr>
<td>e. Completed Formal Investigations Reviewed</td>
<td>84</td>
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<tr>
<td>f. Sustained Findings/Discipline Reviewed (by officer)</td>
<td>103</td>
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<tr>
<td>g. Completed Mediations</td>
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## B. Discipline

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<th>1. Denver Police</th>
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<tr>
<td>a. Chief’s Hearings Attended/Recommendations Made</td>
<td>32</td>
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<table>
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<tr>
<th>2. Sheriff Department</th>
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</thead>
<tbody>
<tr>
<td>a. Pre-Disciplinary Hearings Attended--Recommendations Made</td>
<td>55</td>
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## C. Critical Incidents

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<thead>
<tr>
<th>1. Denver Police and Sheriff</th>
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</thead>
<tbody>
<tr>
<td>a. OIM Rollouts to DSD and DSD Critical Incidents</td>
<td>8</td>
</tr>
<tr>
<td>b. Officer-Involved Shooting Investigations Monitored</td>
<td>7</td>
</tr>
<tr>
<td>c. In-Custody Death Investigations Monitored</td>
<td>10</td>
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ADDENDUM

Introduction

The Citizen Oversight Board issues this addendum to its annual report to address certain key issues in the Denver Police Department that it feels are important to report on given (a) the crossroads at which the Office of the Independent Monitor finds itself since the recent departure of Richard Rosenthal, and (b) the public's decreased confidence in the integrity of Denver's law enforcement agencies due to several recent highly publicized cases of officer misconduct. The COB recognizes that with the election of Mayor Hancock and the recent appointment of a new Chief of Police and Manager of Safety, there is reason to be hopeful that necessary changes will be made at DPD and that the public's confidence will be restored. Nevertheless, the COB is concerned about the issues discussed below, and hopes that the present mayoral administration, as well as the future Independent Monitor, will carefully consider these issues and determine how to investigate and resolve them as reform is enacted in Denver.

Issues of Concern

1. **Unlawful Entries into Residences**: Over the past several years, the OIM has identified a number of cases in which Denver Police officers have apparently made entries into homes without probable cause, consent, or exigent circumstances. Almost every one of these cases originated with a citizen complaint, not an officer complaint. Assuming that citizens do not typically understand the many nuances of constitutional law related to search and seizure, the COB is concerned that the number of citizen complaints about unlawful entries, searches, and seizures may under-represent the extent of the problem. Recommendations: (a) DPD should improve its training and continuing education programs on search and seizure law; and (b) DPD should create a mechanism to ensure the routine referral to Internal Affairs of cases that have been rejected for prosecution due to search and seizure violations or in which the court has either dismissed a case or suppressed evidence due to an unlawful search or seizure.

2. **Decreased Quality of DPD Internal Affairs Investigations**: The COB is concerned that the quality of formal internal affairs investigations at DPD has decreased since the implementation of the Disciplinary Matrix on October 1, 2008. The COB believes this has been caused by cultural resistance to the Disciplinary Matrix and its requirements for stricter, more consistent discipline, especially in cases involving improper use of force and/or lying. Since the implementation of the Disciplinary Matrix, the OIM has noted: (a) a decrease in good faith collaboration between the IAB and the OIM in investigations; (b) an increase in IAB investigators asking leading and suggestive questions that appear to be designed to guide officers and/or witnesses to give answers that will lead to lesser discipline or no discipline at all for the subject officers; (c) poor documentation of significant investigations, which has hindered the OIM's ability to effectively monitor formal investigations; (d) a reluctance by DPD to investigate or bring allegations of inappropriate force and/or lying, despite the fact that it may be appropriate to do so, (e) a tendency by IAB to, at times, reflexively justify and defend officer conduct, especially in cases involving allegations of unlawful entry, search and seizure, use of force, or departing from the truth; and (f) a tendency by IAB and DPD senior staff to, at times, reflexively assume that the credibility of officers is superior to that of citizen complainants and witnesses, regardless of any underlying motivation to lie or illogic in an officer's version of an event. Recommendations: (a) DPD should staff IAB with more experienced and better trained investigators; and (b) in order to reduce the risk of investigator bias, IAB should consider the feasibility of using retired investigators and/or detectives who may be willing to contract with DPD to perform internal affairs investigations.
3. **Code of Silence Regarding Officer Misconduct**: The COB is concerned that there appears to be a code of silence at DPD about officer misconduct.

This is most concerning in cases involving excessive use of force. In a recent Civil Service hearing, an officer fired by the Manager of Safety for failing to report a criminal assault on a juvenile who had just been arrested after a foot pursuit claimed that he was unable to report this wrongful use of force for fear of being labeled a “rat” by other officers and ostracized for reporting misconduct. In two significant inappropriate force cases that were captured on videotape, the OIM noted that the chain-of-command failed to adequately address the subject officers’ use of inappropriate force and, instead, sought to justify the involved officers’ conduct. In addition, not a single officer came forward to confirm unnecessary force was used, even though there were multiple officers present at the time of each incident.

This issue also appears to be a problem in less significant cases. For example, the OIM reported in its second quarterly report for 2011 that statistical analysis of the ratio of officers arrested in Denver for driving under the influence (DUI) as the result of a traffic stop, as opposed to those arrested as the result of a DUI-related traffic collision, showed a strong likelihood that DPD officers have given preferential treatment to their own officers for DUI related offenses. Additionally, while complaints of discourtesy are among the most common citizen complaints lodged against DPD officers, there has not been a single case of discourtesy sustained by the Department based on the statement of a police officer. In the one case where an officer did come forward as a witness to an act of discourtesy, that officer later recanted during the course of the command review of the complaint. In another incident, the OIM was informed by one officer, who wished to remain anonymous, of being demeaned by a supervisor for corroborating a complainant’s allegation of discourtesy against a fellow officer, and that the supervisor made an SSR entry against the subject officer but failed to notify Internal Affairs about the incident.

Based on this evidence, a reasonable inference can be made that DPD officers are unwilling or unable to come forward to report misconduct either because they feel it would be futile or because they fear retaliation. Of course the COB recognizes that the great dangers and intense pressures of being a police officer necessitate loyalty, trust, and camaraderie amongst colleagues. However, it also recognizes that loyalty, taken to the extreme of tolerating, failing to report, or covering up misconduct, undermines the very purpose of law enforcement and it must not be tolerated. **Recommendation**: A thorough review of DPD culture should be conducted to determine the extent to which there exists a code of silence about reporting misconduct. Training and reform should then be enacted to remedy any such culture.

4. **Complaint Intake**: The COB is concerned that the citizen complaint intake process at IAB may, at times, actually discourage citizens from filing complaints. The OIM has noted that in a number of cases, Internal Affairs Sergeants have either: (a) attempted to dissuade complainants from filing complaints; (b) argued with complainants; or (c) inappropriately given their personal opinions to complainants indicating that the officer(s) being complained about did nothing wrong. While in many cases, the Sergeants may have been correct, the appearance of bias and the failure to take complaints in an objective manner has the potential of dissuading legitimate complaints. In one incident, an IAB Sergeant was overheard arguing with a complainant over the phone and saying: “Why should I believe you over the officer?” **Recommendation**: In order to ensure that complainants are not being discouraged, DPD should evaluate contracting with an independent agency to receive citizen complaints alleging officer misconduct. Alternatively, officers working on complaint intake at IAB should receive updating training on best practices for complaint intake.
5. **Inadequate Categorization of Misconduct Allegations in DPD Database**: In order for DPD to be able to effectively track, evaluate, and investigate patterns of complaints and potential misconduct, it must maintain an effective database in which it properly labels complaints received. The COB is concerned that this may not be happening because the OIM has noted that the Internal Affairs Bureau has often failed to appropriately categorize allegations of misconduct. For example, the OIM reports that biased policing complaints have been categorized in the past as “discourtesy,” “conduct prejudicial,” or “responsibilities to the public” complaints. As well, the OIM reports that IAB command staff has defended such actions where the staff believes the complainant’s allegations are without merit and because they believe such an allegation will sully an officer’s IAB record. In addition, the OIM reports that IAB has mis-categorized some inappropriate force allegations under a vague category of “administrative review.” Although IAB informed the OIM that any misuse of the “administrative review” specification would be reviewed and corrected, as of the end of the 2011, no such action has been taken. Recommendation: DPD should create rules to ensure consistency in data entry and make sure that all employees entering such data are properly trained.

6. **Untimely Command Reviews**: The COB is greatly concerned about the undue length of time it takes for disciplinary recommendations to make their way through the various ranks within DPD, a process known as “command review.” Moreover, the COB is concerned about whether this lengthy, complicated process is necessary or effective. Recommendation: A thorough review of the command review process should be conducted to determine how it can be streamlined to be more efficient, shorter, and more effective.

8. **Assignment of Officers Facing Potential Termination**: Although the DPD Operations Manual calls for officers who are likely to be terminated to be either placed on administrative leave or put in a desk assignment, the OIM has noted that in several cases, often involving “Commission of Deceptive Act” or “Inappropriate Force” allegations, officers are allowed to remain on the street, making arrests and testifying in court, even when there is significant evidence warranting their termination. The OIM has reported that these cases have sometimes languished in Internal Affairs or in the District while undergoing command review and, only when a District Commander or a Division Chief has concluded that termination is warranted, has the officer been taken off the street. Recommendation: A thorough review should be conducted to determine if DPD practice on this subject is compliant with its written policy.

**Conclusion**

One of the main goals of the establishment of the OIM and the COB was to create transparency about law enforcement’s disciplinary processes. The hope was and is that a byproduct of this transparency would be that the public’s trust in its law enforcement agencies will be increased. The COB recognizes that the issues discussed in this addendum may actually decrease the public’s trust. Unfortunately, this is also a potential byproduct of transparency. The COB notes, however, that transparency, like virtue, is its own reward. If the public likes what it sees, its confidence may be raised. But if the public does not like what it sees, it can bring its collective will to bear to enact change. The COB is aware that change is underway at DPD, and it is hopeful that the change will address many, if not all, of the issues discussed here. Nevertheless, the COB feels that the public must be aware of these issues so it may ask questions about them, monitor them, and ensure that meaningful and effective change is, in fact, realized.