



The Denver Police Protective Association



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January 15, 2019

Paul Kashmann
Denver City Council – District 6
1437 Bannock Street, Room 451
Denver, CO 80202

RE: OIM Amended Ordinance

Dear Councilman Kashmann:

At the outset, thank you for meeting and speaking with us last week. The conversation was greatly appreciated. In follow up, we offer the following synopsis:

OIM ORDINANCE PROPOSED CHANGES

Sec. 2-373 Mandatory oversight by the monitor's office.

The primary focus of this change is to require the PD to “immediately” notify the OIM of a pending investigation. This likely is the result of prior friction between the OIM and the PD. **Of concern is the fact that the OIM must be immediately notified of any charge or investigation of even a misdemeanor in any jurisdiction. Rationale: If the OIM releases information on an officer’s arrest after the immediate notification, it clearly jeopardizes not only the integrity of the investigation, but the ultimate outcome of the investigation.**

Sec. 2-374 Discretionary oversight by the monitor's office.

This change is of little concern in that it allows the OIM to investigate those who supervise uniformed personnel.

Sec. 2-375 Public reporting by ~~Reports of~~ the monitor. [Discretionary oversight]

This revision appears benign at first blush in that it concerns the obligation of the OIM to publish reports. **Of concern, however, is the obligation of the OIM to publish public status reports concerning pending investigations, and/or disciplinary recommendations. Potentially that will create public pressure on the Chief to increase discipline in politically sensitive matters, and overly involve the public in policy questions.**

Sec. 2-376 Confidentiality.

This revision addresses only the deliberative process privilege and is of little concern.

Sec. 2-378 Appointment and qualification of board members.

This proposed revision **increases the size of the Oversight Board. Size probably doesn't matter. However, note that the change now allows Council to be involved in the selection of the board members (allowing both the mayor and Council to select four each). Of greater concern is that the Oversight Board would have authority to propose the names of those to be selected by the Mayor or Council. The result potentially will be that the Board empowers itself by the nominees presented and will unduly restrict the pool of candidates to those who favor civilian control of the DPD. Also, of concern is why are the stakeholders (PPA, Local 858, Sheriff FOP) not involved in the selection of COB Board? This small change would lend greater transparency and inclusion to the process.**

Sec. 2-380 Removal from board office.

Removal from the board requires an opportunity to be heard before an independent hearing Officer. This is a much greater protection than uniformed personnel are given when being disciplined or terminated.

Sec. 2-388 Internal investigations.

At first blush, this proposed revision appears benign in that the OIM is to be given reasonable notice of interviews. **Note, however, that the OIM is also given expanded opportunity to make recommendations on discipline. This potentially may delay or lengthen the disciplinary process.**

Sec. 2-390 Monitor access to records, the policy revision process, and other items.

As you stated at our meeting, this portion regarding policy revision has already been removed.

Sec. 2-391 Response to monitor and board recommendations.

In a continuation to the expanding power of the OIM and Board, this section requires that the Chief respond in writing within 30 days to any recommendation of the OIM and the Oversight Board as to why the suggested policy or disciplinary recommendation has not been adopted. Beware, this moves closer and closer to a civilian run department.

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Sec. 2-392 Retaliation prohibited.

By virtue of this section, any employee can be disciplined/terminated for interfering with the duties of the OIM, and/or charged criminally. Also, this section establishes the ability of the Monitor to release information to the media, if the Monitor is not happy or satisfied with the results or the response by the Chief and Director of Safety. The State and Federal whistle blower protections are still in effect and will protect anyone coming forward with information. **This is not necessary.**

Thank you again for your time and consideration in this matter. Please do not hesitate to contact us should you have any questions.

Very truly yours,

DENVER POLICE PROTECTIVE ASSOCIATION



By: Nick Rogers, President
On Behalf of the Board

/NR
cc: Executive Director of Safety Troy Riggs
Paul Pazen, Chief, Denver Police Department