

January 11, 2019

To: Mayor Michael B. Hancock

Members of Denver City Council

From: Samuel Walker, Ph.D., Professor Emeritus, School of Criminology and Criminal Justice, University of Nebraska at Omaha

Re: Comments on Proposed Amendments to the Denver Revised Municipal Code

I am Samuel Walker, Professor Emeritus of Criminal Justice at the University of Nebraska at Omaha. I write to recommend adoption of the proposed amendments to Article XVII I –Office of the Independent Monitor, which are before you.

As Professor of Criminal Justice, my principal area of expertise is the subject of police accountability, including a special focus on external oversight of the police. I am the author of 14 books on the subjects of policing, police accountability, and race and criminal justice. I have also written numerous articles and reports on these subjects, and have consulted with the U.S. Department of Justice, and many city, county, and state law enforcement agencies and city governments. My book *Police Accountability: The Role of Citizen Oversight* (2001) is still the only book devoted exclusively to the subject of oversight. The third edition of my co-authored book *The New World of Police Accountability* is being published this month. One chapter of that book is devoted to external oversight of the police. The book cites the recent work of the Denver Office of the Independent Monitor under Nick Mitchell in several places.

I have closely followed the work of oversight agencies in the United States over the last thirty-five years, and it is my professional judgment that the OIM has done outstanding work and stands in the top rank among its peers.

The proposed amendments before you involve important provisions that would further enhance the ongoing work of the OIM. Sections 2-390 and 2-391 relate to OIM input into the policy revision process for the agencies under the OIM's jurisdiction, and would greatly enhance the development of policies to better serve the Denver metropolitan community. They are consistent with the recommended Action Item 1.5.1 of the President's Task Force on 21st Century Policing (May 2015) that "*In order to achieve external legitimacy, law enforcement agencies should involve the community in the process of developing and evaluating policies and procedures.*"

Actions by law enforcement agencies directly affect the residents in the communities they serve. For this reason it is important to have the perspective of community residents represented in the policy development process. The OIM is a particularly appropriate vehicle for obtaining and communicating community perspectives because of its active program of community outreach. In addition, the OIM has

demonstrated its expertise in crafting thoughtful and fair policy recommendations through its recent analyses of policies regarding use of force, body-worn cameras, and disciplinary matters. Sections 2-390 and 2-391 would ensure that Denver's safety agencies rely upon this expertise in crafting important new policies that will impact Denver's residents.

Section 2-391 appropriately provides a structured process of dialogue between the OIM and the law enforcement agencies it oversees. Agency leaders "shall respond in writing within thirty (30) days to any recommendation by the monitor." Particularly important, agency leaders are required to "explain the specific reasons why" any OIM recommendation will not be adopted. The result of this process would be a civil dialogue between the two parties, which would have the virtue of enhancing mutual understanding and avoiding the misunderstandings and suspicions that result when a community recommendation is rejected without explanation. In those cases where a proposed agency policy is revised in one or more sections pursuant to an OIM recommendation, the result will enhance mutual respect, trust, and understanding.

Section 2-389 serves to address a prevalent problem in police disciplinary procedures across the country. In an unknown number of police officer discipline cases, disciplinary penalties for misconduct are reduced—or dismissed altogether—through settlement negotiations that are undertaken with the express purpose of avoiding appeals to a civil service board or other appellate authority. The process, in short, resembles plea bargaining in the criminal courts. Plea bargaining has long been a source of public distrust of the criminal process for many community residents as a direct result of the secrecy that surrounds it, and the perception that it may undermine the interests of justice. Pervasive plea bargaining in the police disciplinary process may have a similarly deleterious impact on community and officer trust in the fairness and transparency of the disciplinary process.

In some disciplinary cases, charges against an officer are properly reduced or dismissed because the investigation has revealed that the officer did not act as originally charged or that the available evidence is not sufficient to sustain the original charge(s). In such cases the reduction or dismissal of charges is entirely appropriate.

Problems arise when an investigation has substantiated the charges against an officer, but the disciplinary decision-maker substantially reduces or dismisses those charges in exchange for an agreement with the subject officer that he/she will waive all rights to appeal. In such cases, the decision-maker has bargained away a consistent and fair disciplinary outcome in exchange for expediency, which does not promote long-term community or officer trust. Section 2-389 provides that the OIM can play a valuable role in identifying possible problems with disciplinary settlements and in raising appropriate questions about such problems. The OIM has no power to dictate a resolution of the questions raised. Rather, as is the case with Sections 2-390 and 2-391 discussed above, the process would involve a civil dialogue between agency personnel and the OIM. Over time, this process should develop a set of shared understandings about the standards for consistent, fair and just disciplinary actions. Across the country, the lack of consistent disciplinary actions has a detrimental impact on officer morale. The perceived lack of fair and just disciplinary actions, meanwhile, is a source of mistrust of law enforcement agencies among many members of the public. In the end, therefore, a procedure that helps to establish consistent, fair and just disciplinary actions would benefit the agencies, the officers, and the community.

Section 2-374 giving the OIM authority to monitor not only uniformed personnel but also “anyone who supervises uniformed personnel” adds an important dimension to the role of the OIM. It stands to reason that all personnel in a law enforcement agency—including command staff—should be held to account for their conduct. Possible misconduct by supervisors is an extremely important issue, because leaving it unaddressed undermines the confidence in the agency among the uniformed personnel who are being supervised.

In conclusion, while I have only specifically commented on several of the proposed amendments before you, each of the amendments would help to enhance the value of the OIM to the people of the Denver metropolitan community. Citizen oversight serves several important purposes. An effective oversight agency helps to improve the policies and procedures of the law enforcement agency or agencies it is responsible for. This is why the improvements to the policy review functions are so important. Good policies and procedures are the essence of law enforcement professionalism. In turn, good policies and procedures serve to both reduce officer misconduct and protect officers from unwarranted charges of misconduct. Reducing officer misconduct helps an agency to better serve members of the public, enhance public trust, and reduce litigation costs to the city and county.

In short, all stakeholders benefit when an oversight agency functions at the highest level. The affected law enforcement agencies are more professional; the public is better served; and the climate in the community is one of trust, confidence, and cooperation. While the Denver OIM has already been an extremely effective oversight agency, its work would be significantly enhanced by the amendments that you are now considering, and I encourage you to pass them without delay.



7142 TRASK AVE | PLAYA DEL REY, CA 90293

323 821 0586

michael.gennaco@oirgroup.com

January 11, 2019

Mayor Michael B. Hancock

Councilmember Rafael Espinoza
Councilmember Kevin Flynn
Councilmember Paul D. López
Councilmember Kendra Black
Councilmember Mary Beth Susman
Councilmember Paul Kashmann
Councilmember Jolon Clark, President
Councilmember Christopher Herndon
Councilmember Albus Brooks
Councilmember Wayne New
Councilmember Stacie Gilmore, Pro-Tem
Councilmember Robin Kniech
Councilmember Deborah "Debbie" Ortega

City and County Building
1437 Bannock St., Rm. 451
Denver, CO 80202

Re: Letter in Support of Office of Independent Monitor

Dear Mayor and Council:

Please consider this letter in support of the important work that your Office of Independent Monitor continues to accomplish. Almost since its inception in 2005, I was fortunate to be involved as the Office was developed and participated in initial training sessions for OIM. Since that time, and particularly under the leadership of Nick Mitchell, the OIM has become a national model for effective law enforcement oversight. When we conduct our independent reviews of law enforcement agencies throughout the country, we regularly recommend the OIM as an entity for those interested in creating civilian oversight of law enforcement. For example, last year, after our year-long independent review of the Madison Police Department, we suggested that its leadership


consider Denver's oversight in crafting its own oversight entity. As a result, Mr. Mitchell and his office subsequently provided insight and guidance to Madison stakeholders currently working on designing a model of effective accountability.

As many of you know, in 2015, when the jails became the focus of concern over use of force and inadequate internal investigations, we were engaged by Denver to conduct an independent review of the Sheriff Department's use of force, training, and internal investigative processes. During that review, the OIM served a critical role in providing us insight into the challenges of the Sheriff's Office and, to the degree we were able to formulate insights and workable recommendations, OIM's perspective proved invaluable. Moreover, as the City and County moved toward implementation of the recommendations, OIM was a key member of the working group tasked with that responsibility.

In 2015, when Council clarified and expanded the oversight responsibilities of OIM, we were able to observe how Denver's oversight body judiciously used its increased authority and resources to provide more robust oversight to the benefit of Denver residents. And just last year, as an example of OIM's continued focus on transparency, its public report on the tragic in-custody death of Michael Marshall identified weaknesses in the Sheriff Department's training, performance, supervisory, and accountability mechanisms and provided stakeholders and residents crucial recommendations designed to prevent further similar incidents from occurring.

As a professional who has worked in the field of law enforcement accountability for almost twenty years, I recognize that the evolution of OIM as a leader in oversight could not have been accomplished without the support of each of you as Denver's elected representatives and your predecessors. As challenges in law enforcement continue to evolve, I entreat you to continue that support so that OIM can continue to ensure that public safety in Denver remains accountable to its residents.

Very truly yours,



Michael Gennaco

Principal

OIR Group



January 14, 2019

Mayor Michael Hancock
Members of the Denver City Council
City and County Building
1437 Bannock St., Denver, CO 80202

Dear Mayor Hancock and Members of the Denver City Council:

I am writing on behalf of Colorado Working Families Party in support of the proposed changes to Denver's Office of Independent Monitor (OIM) and the Citizen Oversight Board (COB). We believe that these changes will enable the OIM to better carry out their mission of providing oversight of the Denver Police and Sheriff's Departments so that resident's rights are respected while also ensuring public safety.

Colorado Working Families Party is a coalition of labor and community voices; we are unique in Denver and state politics as one of the only coalitions bringing together labor, environmental, LGBTQ, racial justice, and immigrant rights activists to move a broad-based, multi-racial and cross-class agenda that benefits all residents.

Law enforcement works effectively when the police and community agree on a common mission, goals, and outcomes. It also works when both sides are held accountable. Bolstering the capacity and clarifying the work of the OIM means better communication, improved police-community relations, and good outcomes overall.

Our coalition supports all the recommended updates, and are particularly encouraged by update numbers one and six. We believe update number one is a long overdue change that will help make the COB more reflective, responsive, and accountable to our community. We also feel that update number six is a good measure to ensure that proper and just discipline is carried out for officers guilty of misconduct.

Denver benefits from the OIM. We applaud these updates and the efforts of Councilpersons Kashmann, Kniech, and López to strengthen this important resource in our city. We look forward to further updates that bolster the independence and authority of the OIM.

Respectfully,

Handwritten signature of Carlos Valverde in black ink.

Carlos Valverde
State Director
(c) 720-295-2801
cvalverde@workingfamilies.org

Handwritten signature of Wendy Howell in black ink.

Wendy Howell
Deputy Director
(c) 510-830-9477
whowell@workingfamilies.org

STATE OFFICE

3840 York Street (e) coloradoworkingfamilies@gmail.com
Denver, CO 80205 (p) 970-408-0646

www.workingfamilies.org/colorado



January 10, 2019

Mayor Michael B. Hancock
Denver City Council
1437 Bannock Street
Denver, CO 80202

Dear Mayor Hancock and Members of the Denver City Council:

Since its founding in 1995, the National Association of Civilian Oversight of Law Enforcement (NACOLE) has established itself as the only national membership association for civilian oversight of law enforcement in the United States. In its twenty-fifth year of existence, NACOLE has 138 individual members and 82 member organizations which represent over 1000 professionals working in the field of civilian oversight of law enforcement. NACOLE provides several professional education and training opportunities each year, including an annual conference at which law enforcement and oversight experts provide training on a variety of topics relevant to oversight with between 400 and 500 attendees annually. In addition, while carrying out our mission to enhance fair and professional law enforcement that is responsive to community needs, NACOLE provides member support and resources to new and existing oversight agencies.

We understand that recently, various ambiguities have arisen about the interpretation of the municipal ordinance that created Denver's Office of the Independent Monitor (OIM). We also understand that the Denver City Council is currently considering updates to address them. As you engage in this important discussion, we wish to share our observations about the OIM and hope that they will be useful to you.

Over the last five years, we have followed the work of Denver's OIM closely. We have seen an agency that has repeatedly helped drive necessary public safety policy reforms, produced thorough and thoughtful reports that are accessible to the public, and helped to improve the perceived legitimacy of Denver's citizen complaint process. All of these accomplishments are hallmarks of effective civilian oversight. When the OIM identified a spike in concerns about youth/officer contacts, it approached the problem creatively by partnering with the police to innovate a new police/youth outreach program that other jurisdictions around the United States are now emulating. We are frequently consulted by mayors and other government officials interested in creating civilian

P.O. Box 87227 ♦ Tucson, Arizona 85754 ♦ (317)721-8133
E-mail: info@nacole.org ♦ Website: www.nacole.org

oversight agencies and we often refer them to the Denver OIM as a national model of what oversight can achieve.

NACOLE is currently finalizing a grant-funded study (funded by the United States Department of Justice Office of Community Policing Services) of effectiveness in civilian oversight. Nine oversight agencies were selected as models, and their practices will be highlighted, in detail, in a report that we expect to be published in the coming months. The report will help guide jurisdictions looking to create or improve their oversight agencies. Denver's OIM is one of the nine selected study sites and a number of its innovative practices are to be featured prominently in the final report.

Through our national lens, we can tell you that the Denver OIM has been a very effective oversight agency that has become a model around the country. To the extent ambiguities in the OIM's establishing ordinance need resolution, we offer our support for your efforts to resolve them and ensure that the OIM will be able to continue providing excellent service to the people of Denver.

Should you have questions or would like to consult with NACOLE on this matter please feel free to contact me directly by phone or email at (617)254-8331 or bcorr@nacole.org.

Kind regards,

A handwritten signature in black ink, appearing to read 'Brian Corr', with a long horizontal line extending to the right.

Brian Corr
President

January 10, 2019

Re: Office of the Independent Monitor for the City and County of Denver

To Whom it May Concern:

I am pleased to have the opportunity discuss my experiences with the Office of the Independent Monitor for the City and County of Denver and to support the ordinance improvements that would strengthen their oversight authority. After 15 years, I recently left my position as Deputy Chief of the Special Litigation Section in the Civil Rights Division of the United States Department of Justice in Washington, D.C. It was during that tenure that my work in the enforcement phase of civil rights litigation often substantively overlapped with the work being done by various oversight agencies throughout the country. I considered myself fortunate to be able to draw on my oversight colleagues to compare experiences and strategize about how to be even more effective in our ongoing efforts to monitor and shape conditions and practices in jails, prisons, and police and sheriff departments.

The Office of the Independent Monitor for the City and County of Denver was one of the top two oversight agencies in the nation that I sought out to help inform and develop my approach at DOJ to monitoring compliance with consent decrees and settlement agreements concerning unconstitutional conditions of confinement in jails and prisons throughout the country. I initially became familiar with the Office of the Independent Monitor through its website and publications, and in the last several years of my DOJ tenure I was thrilled to personally meet and work with the Independent Monitor, Deputy Monitors and Policy Analysts at small oversight convenings and regional and national oversight conferences. The Office of the Independent Monitor has always featured prominently in these gatherings and has earned a national reputation for excellence in oversight.

One of the most impressive aspects of this Office is that they are constantly striving to be even more effective. I certainly know that the exchange of information and experiences always flowed both ways. For example, when the Independent Monitor learned about one of DOJ's particularly successful compliance experiences with a prison, he invited me to a regional oversight training to share the successes and lessons learned from that case. And the Independent Monitor and his staff have been instrumental in ensuring that national oversight conferences have meaningful, substantive presentations from both top oversight professionals and lesser-known oversight practitioners with unique successes.

Generally speaking, in terms of oversight, with appropriate access it is fairly easy and common to recognize existing problems and to identify failures in various systems that may have contributed to the harm. Far more difficult, and less common, is the ability to collaboratively engage in developing, implementing and sustaining meaningful reform to ensure lasting change. But even more important in terms of impact is the ability to proactively identify trends or smaller individual incidents that may expose systemic weaknesses, and to then bolster those systems and prevent future harm. Oversight agencies are well positioned to address these areas, but in order to do so effectively they must have meaningful authority and access to facilities, documents and staff. We can't fix what we can't see – particularly in jails and prisons. The more exposed our systems become, the more we can see both the strengths and the weaknesses of our systems and our law enforcement professionals.

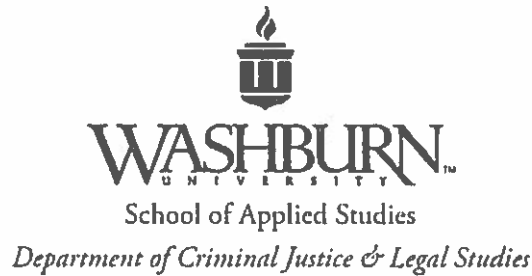
The Office of the Independent Monitor for the City and County of Denver already does amazing work and deserves every opportunity and resource necessary to enhance their oversight duties. Both the citizens and law enforcement professionals in the City and County of Denver would benefit from an improved ordinance that would clarify and strengthen their oversight capabilities.

Sincerely,



Julie Abbate

National Advocacy Director
Just Detention International
1900 L Street, NW
Suite 601
Washington, DC 20036
(202) 506-3374
jabbate@justdetention.org



January 14, 2019

Mayor Michael B. Hancock
Denver City Council
1437 Bannock Street
Denver, CO 80202

Dear Mayor Hancock and Denver City Council Members:

I am writing this letter to describe the positive contributions Denver's Office of the Independent Monitor has made to the field of civilian oversight and, more specifically, correctional oversight. I am an assistant professor and chair of the Criminal Justice and Legal Studies Department at Washburn University in Topeka, Kansas, and my area of research is correctional oversight with a focus on external oversight of jails. I have published and have given presentations, locally and nationally, regarding my correctional oversight research. I am a Kansas Supreme Court approved mediator and mentor-mediator as well as the President-Elect of Heartland Mediators Association. I have spoken nationally regarding mediation and conflict resolution and have also worked with local agencies to develop community-based mediation programs. Through my academic and professional experience, I have had the opportunity to study Denver's Office of the Independent Monitor ("OIM") and can speak to the OIM's efforts to promote transparency; engage community members, practitioners, and academics; and help strengthen the relationship between law enforcement and the community.

Transparency is a critical component of external oversight, and the OIM's publicly released annual and semi-annual/quarterly reports serve to promote transparency. These reports detail the work of the OIM, including data-driven analysis of potential policy issues, review of OIM programs and initiatives, and results of officer-involved shooting and in-custody death investigations. The OIM's reports are thorough and accessible and help to ensure that the agencies the OIM monitors and the OIM itself are transparent.

The OIM also releases issue-specific reports, such as the report on the death of Michael Marshall, which help promote transparency and identify critical issues the criminal justice system should address. These issue-specific reports are useful in the academic classroom. For instance, I use the OIM's Michael Marshall report in a correctional law class to help students better understand use of force issues in the correctional setting. By reading the OIM's report, students learn more about use of force investigations, correctional management, the treatment of vulnerable populations, and possible policy reforms.

The OIM also provides training and support for community members, criminal justice and oversight practitioners, and academics across the country. In 2017, the OIM co-hosted with the National Association of Civilian Oversight of Law Enforcement (“NACOLE”) a Vulnerable Populations and Civilian Oversight training. Additionally, staff from the OIM regularly present at the annual NACOLE conference and are a resource for practitioners and academics studying correctional oversight—OIM staff have been available to answer my questions regarding the Independent Monitor model of oversight.

Beyond its contributions to correctional oversight, the OIM has created programs to help strengthen the relationship between law enforcement and the community, including the citizen complaint mediation program. The OIM’s mediation program is recognized as one of the most successful citizen complaint mediation programs in the country, with over 548 successful mediations since 2006. The program is viewed as a model for conflict resolution within the criminal justice system.

Denver’s Office of the Independent Monitor has made many positive contributions to correctional oversight and to efforts to strengthen the relationship between law enforcement and the community. If you have any questions regarding my background, impressions about the OIM’s positive contributions, or my letter, please do not hesitate to contact me.

Sincerely,



Melanie K. Worsley, J.D.
Chair and Assistant Professor
Criminal Justice and Legal Studies
(785) 670-1410
melanie.worsley@washburn.edu



Community Oversight Now
PO Box 280962
Nashville, TN 37228-0962

Dear Mayor Hancock and Members of Denver City Council,

We are writing as OversightNow, a Nashville-based grassroots coalition that drafted a charter amendment, petitioned for its inclusion on the ballot, and successfully campaigned to create Nashville's first Community Oversight Board. The Charter Amendment was ratified in November 2018 by majority vote of Metro Davidson County residents. We are writing to encourage the adoption of the proposed changes to the ordinance which governs the operation of Denver's Office of the Independent Monitor. Through their workshops at the NACOLE annual conference and the insights from their representatives there, we gathered invaluable information both about implicit bias training and about navigating the landscape of oversight. We are incredibly grateful, as are many oversight entities across the country, for learning from their experiences.

In drafting the charter amendment which would create Nashville's civilian oversight entities, we considered 20 years of national research regarding effective oversight. Study after study reinforces that the criteria necessary is threefold. To ensure that investigations are fair and transparent, that the community is aware and involved in policies implemented in their neighborhoods, and that the department has the resources necessary to give all cases the attention they deserve, Oversight departments must be (1) Independent, (2) Empowered, and (3) Funded. In addition, best practices across the country reveal that community engagement and policy evaluation are instrumental to the legitimacy of the department and to long term improvement of relationships between law enforcement and civilians.

Oversight is intended to create a seat at the table for the community as well as providing objective accountability. In consideration of these goals, we compared existing oversight entities across the country and found that Denver is among a short list of cities across the country that fulfill the basic requirements of funding and independence, and beyond that, they have lead the way in best practices for community empowerment through education and for policy analysis.

Consistently looking for ways to improve the function and the impact of the department is a defining characteristic of Denver's oversight entity and this practice not only allows information sharing across the nation, it raises the bar for innovation and collaborative learning. The proposed changes would increase community involvement and increase their stake in the success of and support for the OIM departments. Please add your support to this effort.

The positive impact of Denver's office is apparent. For that reason we modeled much of our amendment, including the requirement for staffing policy advisers and community liaisons, on their practices. Nashville's Community Oversight Board is currently in the implementation phase. It will be an 11 member board, of which 9 members are nominated either by individual petition or by community organizations. We believe that this composition will reflect more democratically the makeup of an ever-changing city and the diversity of experience that it represents. We urge Denver's council to adopt the changes which will allow their department to do the same.

Sincerely,

OversightNow

Website <https://www.oversightfornashville.com/>



January 12th, 2019

To Whom It May Concern,

Three Denver City Council members are this week introducing changes to the ordinance that established the Office of the Independent Monitor (OIM) and the Citizens Oversight Board (COB), Denver's independent civilian police oversight agencies. These changes, while relatively minor, are necessary to clarify the authority and responsibilities of the agencies, and allow them to carry out their duties more effectively and efficiently.

The OIM has proven its value to the city on numerous occasions, and it is clear that the people of Denver support and appreciate the work it has done in ensuring accountability of our law enforcement agencies, as evidenced by the fact that in 2016 the people of Denver overwhelmingly supported an amendment to the city charter to ensure the continued existence of both the OIM and the COB, which supervises the work of the OIM. The proposed changes to the ordinance are a continuation of the ongoing process of strengthening those offices.

Many in the law enforcement community have welcomed the oversight provided by the OIM, and have willingly cooperated with it. Recently appointed police chief Paul Pazen has expressed his support for the work of these agencies.

Unfortunately, some have not been so appreciative. When the proposed ordinance changes were announced, Nick Rogers, president of the Police Protective Association, called the ordinance "unnecessary." Rogers was quoted in the Denver Post as saying, "The system works as it is. There's nobody, no one saying that the system does not work as it is. The community doesn't say that."

This ought to be filed under the heading of "fake news." In fact, the changes Council is currently considering have been proposed as a result of the Denver Justice Project and other community organizations loudly calling on council members for such changes as a result of community members expressing their desire in various community forums for measures to strengthen police oversight in Denver.

Over the years, we have heard everyday Denverites express many times that they want and expect oversight to have an explicitly civilian nature, independent from the influence of current or former law enforcement officers or agencies, because they have seen ample evidence in Denver and nationally that we should not trust police to police themselves effectively. The OIM and COB provide that civilian oversight, and we hope that they will be empowered to continue to do so even more effectively.

Denver's OIM and COB have even become a model for other cities looking at establishing civilian oversight systems. But the ordinance under which these agencies work is now 15 years old, and, as we are all aware, there have been momentous changes in the city of Denver and community-police relations in those 15 years, and it would be foolish to think that any agency could continue to operate under an ordinance created so long ago without changes.

The Denver Justice Project and our constituency wish to express our strong support for the work of the Office of the Independent Monitor – especially the leadership of Independent Monitor Nick Mitchell – and the Citizen Oversight Board, and call for their work to continue to receive full and complete support from the City of Denver. We also join the community call for the currently proposed ordinance changes to be quickly approved by the full Denver City Council to ensure that the OIM and COB can continue their important work even more effectively.

Sincerely,

The Members of the Denver Justice Project

DenverJusticeProject@gmail.com

www.DenverJusticeProject.org



COLLEGE OF LAW
Law Faculty

January 11, 2019

To Whom It May Concern:

I am writing to share my professional expertise about the Office of the Independent Monitor for the City and County of Denver and the proposed ordinance changes. I am a Professor of Law at Loyola University New Orleans, specializing in criminal and constitutional law. My research and experience centers on conditions in jails and prisons and I am certified by the U.S. Department of Justice as an auditor for compliance with the Prisoner Rape Elimination Act (2003).

One particular area of focus in my research is the benefits of transparency and oversight for prisons and jails. Prisons and jails are closed institutions where government authority is at its height. Unlike other public institutions, such as public schools, there is often little community participation or oversight over the operations of prisons and jails. These carceral facilities are also difficult for the general public to access, yet as public institutions, these facilities should reflect the policy and moral views of the surrounding community.

For the reasons above, jurisdictions around the U.S. have created independent mechanisms to provide the public with transparency about the operation of these facilities. There are at least fifty such mechanisms at the local and state level in the U.S. that include jail and prison monitoring in their scope. While the exact form of these independent oversight mechanisms vary, all have the common goal of improving public safety and welfare through transparency.

The Office of the Independent Monitor for the City and County of Denver does critical work to support public engagement and ensure transparency. Their reports, such as the one providing an independent accounting of the death of Michael Marshall, not only supports the Sheriff and city's goals of improved safety for all, but also increases public trust and confidence in the local criminal justice system. Enhanced public trust in our institutions makes us all safer by ensuring community cooperation and partnership in the investigation and prosecution of crimes.

As an expert in this field, I fully support the proposed ordinance changes before you. The proposed changes are consistent with best practices across the nation and would increase transparency and public trust in Denver's jails.

Sincerely,

Andrea Armstrong
Professor of Law



Dear Denver City Council,

As a criminology professor and scholar who studies law enforcement at the top-ranked School of Public Affairs at the University of Colorado Denver, it is my job to ask questions. As such, I'd like to ask you one question which is crucial to the matter under your consideration today - What would Denver Police Department's policies and practices look like if the Office of the Independent Monitor (OIM) were to be excluded from proactive involvement in key policy discussions and decisions? In short, exclusion of the OIM would be a gigantic leap backwards for community policing in Denver.

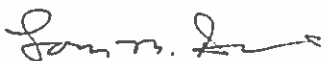
As the founder of modern policing, Sir Robert Peel once wisely observed, "the community is the police, and the police are the community" - OIM plays a critical role in community policing within Denver, and at the core of this role is involvement in and oversight of law enforcement to ensure that police are not only held accountable after the fact, but perhaps most importantly, that police are held to the highest standard in the policies that guide day to day practices. So much of the costly litigation, negative publicity about poor police decisions and resulting tragedy is either the direct or indirect product of departmental policies. While many tend to write police misconduct off as attributable to a few 'bad apples' - the reality is much more complicated. Policies are the backbone which guide how police exercise the substantial discretion afforded to them. As such, policies have significant implications and consequences for both police and the community they serve. Policies are not something that should be decided within a 'small tent'.

In most police departments throughout the nation, especially the least functional, policy decisions are made in relative isolation, among those who are deeply engrained in one world view, and have years of experience approaching the world in a specific role - namely that of police officer. For the command staff tasked with developing such policies, it is often difficult to step outside these roles and interests and the "blue brotherhood" to consider other perspectives. Moreover, given the hierarchical structure of policing, it's not native to engage in consultation or lengthy discussion with 'outside' interests. Police are doers and pragmatists, and they like to take action quickly, and are often required to do so on instinct to survive on the street. However, this is where policing errs most - the presumption that it can adequately translate practices that are essential for survival on patrol to shape policies and practices which must necessarily transcend the basic functions of preserving order and upholding the law while simultaneously serving the pluralistic interests of the community. In my former experience as a professional police planner and professional who sat in on such decisions, and occasionally had the opportunity to shape and inform them, I saw this time and time again. Unlike decisions on the street, these are decisions which cannot be made in isolation and should not be left to police alone or politicized interests - there must be an outside voice that is credibly neutral, professional and capable of asking tough questions and pushing for interests and action that is often in conflict with the dominant police paradigm and worldview.

In Denver, we are fortunate to have a police accountability structure that includes the kind of professional and neutral oversight and expertise provided by OIM. The staff at OIM possess an unbelievably vast amount of legal and professional knowledge and experience with police accountability that is invaluable in informing policies and practices in a way that transcends purely pragmatic and politicized interests often entrenched within the normal policy process. OIM also provides a bridge to many communities that have historically been excluded from key discussions and concerns about police, ensuring the voices of the under-represented are heard. OIM is a trusted institution within the community, as you will likely hear from other supporters. OIM is also deeply integrated in international networks and professional organizations actively working to improve police accountability. OIM has also mastered the art of playing devil's advocate, which serves an essential function in any decision making process by interjecting important questions about the moral, social, ethical and practical implications of policies. While OIM is probably most widely known for its reactive function of reviewing police disciplinary decisions, OIM also plays a critical proactive role in shaping the constantly evolving landscape of police policies and practices. To exclude OIM from involvement in key policy decisions as they are being made would significantly jeopardize Denver's ability to stay ahead of potential issues, and potentially have dire and tragic consequences. Stated another way, while OIM currently has the ability to shape policy proactively and collaboratively in partnership with Denver's law enforcement, exclusion from doing so would only allow OIM to meaningfully shape and inform policy AFTER an instance of tragedy or malfeasance by the police. This in itself would be a truly tragic situation, and a step back for law enforcement accountability in Denver.

In conclusion, in seeking to answer the question - What would Denver Police Department's policies and practices look like if the Office of the Independent Monitor (OIM) were to be excluded from proactive involvement in key policy discussions and decisions? - it is clear to me that less involvement of OIM would leave a significant hole in Denver's police accountability structure and policy process. Namely, instead of staying in front of potential issues, Denver would become even more reactive. This would be a step backward for police accountability at a time where steps forward are badly needed. As such, I urge you to strongly consider whether you wish for important decisions about polices which set up the framework for the exercise of police discretion to be made among a small and exclusive group of insiders who primarily hold a police worldview, or whether they should involve a truly neutral and professional entity like OIM which is capable of interjecting broader professional knowledge, playing devil's advocate and ensuring the right questions at least get asked.

Sincerely,



Lonnie M. Schaible, Ph.D.

Associate Professor and Director of the Criminal Justice Research Initiative (CJRI)

School of Public Affairs, University of Colorado, Denver

Phone: (303)315-0041; Email: Lonnie.Schaible@ucdenver.edu



Office of Law Enforcement Oversight (OLEO)

January 15, 2019

Mayor Michael B. Hancock
Honorable Members of the Denver City Council
City and County Building
1437 Bannock Street, Room 451
Denver, CO 80202

Dear Mayor and Council:

I am writing in support of the work of the Office of Independent Monitor in Denver.

As the Director of an independent law enforcement oversight office myself, I know well the multiple and complex challenges faced by police oversight offices. I have often looked to the quality leadership and expert staff of the Denver OIM for guidance on best practices in my own work. I conducted a site visit of the OIM in 2017 which resulted in meaningful changes to internal practices within my office. Among the nationwide community of police oversight professionals, the Denver office and its director, Nick Mitchell, stand out for their excellence.

One critical factor to ensure the effectiveness of an independent police oversight office is the strong support of elected officials. Attempts to undermine or thwart the work of oversight agencies is a norm that agency directors must struggle with while trying to fulfill their duties. Whether an agency's detractors assert the narrowest possible interpretation of an oversight ordinance, or refuse to provide information that an oversight agency needs to do its work, or attempt to limit the scope of oversight reviews, the ability to simply do our jobs becomes a Herculean, or perhaps Sisyphean, effort. In these circumstances, political support of leaders who care about the public's experience with police and public trust in our systems can make or break the ability of the oversight office to function.

I have reviewed the proposed changes to the OIM's ordinance and hope that the Council will support those that increase the OIM's ability to serve the public as its watchdog over police. There are many important changes within the proposal that should appeal to all stakeholders. For example, a requirement that the police agency respond to recommendations from OIM is both common sense and a best practice to ensure that the police agency benefits from the research and expertise provided by the oversight office. In addition, proposed changes to the monitoring of internal investigations will help ensure that the OIM receives timely notification of incidents and investigations, and that OIM can review complaints against any member or leader of the department. Such changes will help ensure that the OIM meets public expectations for oversight.

I have highlighted just a few of many recommendations among many that speak to the needs of oversight and deserve support. Please feel free to contact me if you have any questions or want to discuss these issues in more detail.

Sincerely,

Deborah Jacobs
Director

-----Original Message-----

From: info@lwvdenver.org [<mailto:info@lwvdenver.org>]

Sent: Monday, January 14, 2019 9:28 PM

To: Kashmann, Paul J. - CC Member Denver City Cncl <Paul.Kashmann@denvergov.org>; Deborah Ortega - Councilwoman At Large <OrtegaAtLarge@Denvergov.org>; Gilmore, Stacie M. - CC Member Denver City Cncl <Stacie.Gilmore@denvergov.org>; Lopez, Paul D. - CC Member Denver City Cncl <Paul.Lopez@denvergov.org>; kniechatlarge <kniechatlarge@denvergov.org>

Cc: katinabanks@gmail.com; OIM <OIM@denvergov.org>

Subject: [EXTERNAL] Updating and Reinforcing Independent Oversight of Public Safety in Denver

Dear Safety & Housing Committee Members,

Unfortunately, the League of Women Voters of Denver is not able to send a representative to your meeting this Wednesday, but we wanted to weigh in on the OIM and COB updates.

The League of Women Voters of Denver board has voted to support the changes to the Office of Independent Monitor and Citizen Oversight Board ordinance proposed by Councilpersons Kashmann, Kniech, and López. We base all our advocacy decisions on positions that we have developed as a group over the past 80+ years. We believe the changes suggested are supported by several of our positions (I have listed them below for your review).

Sincerely,
Pearlanne Zelarney
Director of Communication
League of Women Voters of Denver

League of Women Voters of Denver supports this measure based on the following LWVD positions:

LWV Denver Position on Government:

"Support for a governmental system that is open, representative, responsive, accountable, efficient, fair in its treatment of all citizens, and in which responsibilities are clearly defined and assigned."

Standards on the City Charter:

"The Charter should continue to be reviewed and updated regularly."

Standards on City Council:

"City Council should approve at least some mayoral appointees, including those who serve in positions which are responsible to both Mayor and Council..."

Position on Justice:

"Support for measures which will improve the selection and preparation of law enforcement officers and will improve police-community relations..."

Standards on Law Enforcement:

"There should be dialogue between police and communities served."

"The Internal Affairs Bureau of the Denver Police Department should provide for citizens' input and be made more accountable to the public."

January 11, 2019

Mayor Michael Hancock
Members of the Denver City Council
City and County Building
1437 Bannock St.
Denver, CO 80202

Dear Mayor Hancock and Members of the Denver City Council:

My name is Lindsey Webb. I am a resident of Denver, where I serve as an associate law professor at the University of Denver Sturm College of Law. I teach, practice law, and write in the areas of civil rights and criminal justice. I am writing in my individual capacity to strongly support the changes to the ordinance governing the work of the Office of the Independent Monitor (OIM) proposed by Councilpersons Kashmann, Kniech, and López. I believe these changes will strengthen and support the important and necessary work already undertaken by the OIM, and I encourage the City Council to adopt the proposed changes in their entirety.

I am quite familiar with the work of the OIM. The oversight of our local police is a matter of importance to me as a member of our community and as an attorney and professor concerned with the effective and just enforcement of our criminal laws. I review the regular reports issued by the OIM documenting their work, and I attended a regional conference focused on Vulnerable Populations and Civilian Oversight organized by the OIM in December 2017. I was impressed with what I learned in the conference about the mission and focus of the OIM, and it increased my understanding of the challenges involved in providing necessary oversight to law enforcement.

Based on my almost twenty years of work as an attorney and professor, I am persuaded that a lack of transparency in our systems of law enforcement and punishment can create an environment in which corruption and abuse can flourish. A lack of transparency also prevents the community from understanding the positive and productive qualities of those systems. The work that the OIM already does furthers the transparency and accountability that are required for our institutions to function effectively, and the proposed changes will assist the OIM in doing the work that the existing ordinance mandates even more successfully. I hope that the Council will act to adopt those changes, and I support you in doing so.

Thank you for the work you do.

Best,

Lindsey Webb
lwebb@law.du.edu



STATE OF WASHINGTON

OFFICE OF CORRECTIONS OMBUDS

PO Box 43113 • Olympia, Washington 98504-3113

January 14, 2019

To Whom It May Concern:

I am writing to express my sincere support for the Office of the Independent Monitor for the City and County of Denver and the overall importance of oversight of law enforcement systems. I am currently the Director of the Office of Corrections Ombuds for the state of Washington and formerly the Director of the Correctional Institution Inspection Committee in Ohio.

In my eight-plus years of working in corrections oversight, my experience has been that effective oversight is necessary for any justice system. The problems are often the same: overworked staff, insufficient resources, and bureaucratic structures that rigidly enforce policy without regard for fairness and equity. Unfortunately, problems in a justice system result in the loss of a person's liberty, health, or even life. Nowhere is it more critical to have effective oversight than a justice system.

Further, justice systems tend to be closed, with staff often circling the wagons and acting defensively rather than welcoming the opportunity to engage in quality assurance processes to ensure future issues do not occur. A critical, neutral, insightful eye is necessary to bring light to these situations and assist in the development of policy improvements.

The proposed ordinance change is in line with best practices in corrections oversight work. Public reporting, external monitoring of internal investigations and practices, and transparency are all key facets of oversight agencies and should be strongly supported. The public deserves the right to have information about a justice system that its tax dollars fund.

Our criminal justice systems have become the de facto mental health institutions across the country and they often house the most vulnerable of our communities – the mentally ill, the homeless, the disabled, the victimized and abused. I applaud the City of Denver for the implementation of the Office of the Independent Monitor and its staff and urge it to continue its important oversight work through the proposed ordinance change.

Sincerely,

A handwritten signature in black ink that reads "Joanna Cams". The signature is written in a cursive style with a large loop at the end.

Joanna Cams, Director
Office of Corrections Ombuds

Kate Eves
46 Devonshire Street
London
W1G 7AN
United Kingdom

Email: kate_eves@hotmail.com
US Cell: 616-560-2652
UK Mobile: +44 7703 652020

January 15, 2019

Mayor Michael Hancock
Denver City Council

By electronic mail

Dear Mayor Hancock

I write with reference to the proposed changes to the Denver ordinance affecting the Office of Independent Monitor.

I am very much in support of the changes that have been proposed, each of which plays an important role in ensuring appropriate accountability of the Sheriff and Police Departments.

I have spent the last 20 years working in criminal justice oversight, both in the United States and in Europe. I have worked for some of the longest-established oversight bodies including Her Majesty's Chief Inspector of Prisons and the New York City Board of Correction. I am also the former Head of Violence Reduction for Her Majesty's Prison Service and so fully understand the realities of life inside jails.

Robust oversight, as ensured by the changes to the ordinance, is crucial. It is not only crucial to ensure safe and decent policing on the streets and supervision in jails; It is also crucial to the safety of the staff who carry out those patrols and supervise the jails. Oversight bodies such as the Office of Independent Monitor ensure that poor practices are quickly identified and remedied, ensuring that staff are not exposed to unnecessary risk.

Having worked on these issues for many years, and in many places, I have seen numerous examples of oversight agencies struggling to operate effectively. Those agencies that successfully oversee criminal justice and law enforcement agencies play a hugely important role in assisting those agencies to identify and resolve their problems and, ultimately, to improve public safety.

The Denver Office of Independent Monitor is an example of an oversight office making a positive impact and is frequently held up nationally as a model of good practice. The proposed changes to the ordinance will ensure that this crucial work continues. I again offer my support for these much-needed changes and believe that they will appropriately strengthen the office and ensure that it continues to have a positive impact on public safety in Denver.

Yours faithfully

Kate Eves
Independent Consultant on Corrections Oversight

Barbara Attard
Accountability Associates
60-29th Street, #616, San Francisco, CA 94110
battrd@comcast.net www.accountabilityassociates.org

January 14, 2019

Mayor Michael B. Hancock
Members of the Denver City Council
City and County Building
1437 Bannock St., Room 451
Denver, CO 80202

RE: Letter in Support of Proposed Amendments to the Denver Revised Municipal Code

Dear Mayor Hancock and Members of the Denver City Council:

As a police accountability consultant with 35 years of experience in the oversight field, I ask you to consider my letter in support of proposed amendments to clarify the Office of the Independent Monitor (OIM) and Citizen Oversight Board (COB) Ordinance.

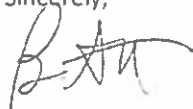
The OIM has an excellent national reputation for making significant contributions to law enforcement accountability through comprehensive investigation reports, policy recommendations to improve policing and conditions in the Denver jails, as well as excellent community and youth programs reaching out to Denver's diverse populations. As police science develops, law enforcement agencies modernize and adapt to changes in the field, it is equally critical that oversight agencies reassess and update authority to ensure that they function to current standards and practices, and fully comply with mandates contained in enabling legislation and ordinances.

The current recommendations to strengthen and update the OIM and expand the COB are required for the organization to function in line with best practices, ensuring full access to records, investigation authority covering issues at all levels—including those involving command staff, participation in policy development to the greatest extent possible, and increasing the number of representatives on the COB to allow for more diverse representation.

In my consulting work I have assisted police agencies and municipalities in developing and improving oversight programs across the country, and have co-authored the *Police Misconduct Complaint Investigations Manual*. As a past-president of the National Association for Oversight of Law Enforcement (NACOLE), I have worked with oversight practitioners and law enforcement leaders in developing standards and training. The Denver OIM has been an important resource in my work, an agency with significant authority, a history of important investigative reporting, a reputation for responding to serious issues in the jails, and a leader in community outreach, especially to youth and all communities. OIM staff members have led national training sessions on these critical topics.

The Denver OIM, in conjunction with the COB, and particularly under the leadership of Nick Mitchell, is a national model for effective oversight. I urge you to continue to support the work of your oversight program, clarifying ambiguities in the legislation, and expanding access and authority to ensure effectiveness. Robust, inclusive, and transparent oversight earns the trust of all involved stakeholders, from community members to those in public safety, protecting civil rights and promoting a safer environment for everyone.

Sincerely,



Barbara Attard



Providing the Public with Effective and Independent Oversight of the BART Police Department

January 10, 2019

Denver City Council
1437 Bannock Street
Denver, CO 80202

Re: Denver Office of the Independent Monitor

Dear Council Members:

Please accept this message of support for the important work of the Denver Office of the Independent Monitor (OIM) and as a testament to the importance of robust civilian oversight of law enforcement.

Please recognize that your support for the mission of OIM serves to improve policing and, importantly, to attain, regain, and maintain community trust in the police department's personnel and leadership by significantly enhancing transparency and accountability. Your support for the work of OIM will help the Denver Police Department (DPD) in its efforts to identify areas for improvements to policies, practices, and training, all of which are globally shared goals. Your support for the effective and skilled leadership and staff of OIM minimizes opportunities for and instances of Constitutional violations and for uses of force with tragic results. Your nourishment of the independent, objective, and thoughtful oversight provided by OIM will ultimately work to heal any rifts between DPD officers and the people they are sworn to serve.

I consider Mr. Mitchell and the staff of OIM to be among the highest level of civilian oversight practitioners in the nation, fully engaged in the application of best practices in oversight and reporting. The work of OIM will certainly serve to enhance the safety of the people of Denver and its law enforcement officers, alike.

Respectfully,

Russell G. Bloom
Independent Police Auditor

cc: Nicholas Mitchell



daniel j. culhane llc
attorney at law

January 15, 2019

Via Electronic Mail

Denver City Council

Hon. Michael Hancock, Mayor

Office of the Independent Monitor

Re: Proposed Updates to Independent Monitor Ordinance

Ladies and Gentlemen:

I am a Colorado attorney and served on the Advisory Committee on the Denver Police Department Use of Force Policy.

I am writing to urge your support for the proposed updates to the Independent Monitor Ordinance, which strengthen and support the role of the Office of the Independent Monitor.

As I am certain you agree, the Office of the Independent Monitor is one of the linchpins of ensuring and strengthening community support for law enforcement in Denver. With its authority to investigate, review and publish reports on the City's safety agencies, the OIM ensures transparency and accountability. This accountability fosters and increases community trust in these key City agencies, which is vital at this critical time when public distrust of government at all levels is high.

The OIM's record speaks for itself, and is a model of how independence and oversight can counterbalance the cynicism that sometimes arises when people reflect on government. As just one example, I am sure you share my sense of pride and satisfaction that officials from Tulsa are visiting the OIM to learn how they might incorporate elements of the OIM in their own city.

Nevertheless, despite its national recognition as a model of independent oversight, there are certain improvements in the OIM's mandate that can and should be made to close loopholes and enhance the effectiveness and independence of the office. The proposed amendments to the Independent Monitor Ordinances will put these updates and improvements into effect. Among other things, adjusting the membership and nominating process for the Citizen Oversight Board will enhance the COB's independence, which, in turn, adds credibility and independence to the OIM itself. The proposed amendments will also close loopholes that exempt the safety agencies' top officers from the OIM's oversight—an awkward and unsettling state of affairs, which appears to suggest that somehow the rank and file are subject to oversight, but the Chief of Police is not.

City Council
Hon. Michael Hancock, Mayor
Office of the Independent Monitor
January 15, 2019
Page 2

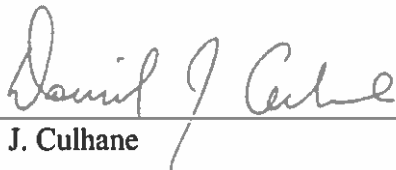
While the OIM is nationally regarded and is obviously a well-functioning organization, we should not allow the OIM to rest on its laurels when steps can be taken to make the office even better. Particularly where agencies like OIM depend on the *appearance* of independence, impartiality and transparency, as well as the *fact* of these attributes, it is essential that we work together to ensure that the OIM is supported, enhanced and improved whenever possible.

The proposed updates to the OIM Ordinance fulfills these objectives. When the improvements are adopted, the OIM will be even better situated to ensure that our key safety agencies enjoy the enhanced public trust that comes with meaningful and independent oversight.

I strongly urge you to adopt the proposed amendments, and demonstrate your continued commitment to oversight and community awareness, involvement and increasing trust in our critical government agencies.

Please do not hesitate to contact me if you have any questions or if I can be of further service.

Very truly yours,
DANIEL J. CULHANE, LLC

By: 
Daniel J. Culhane