

Telephone: 303-888-7922
Fax: 303-420-0588
Email: dancommand@msn.com

DAN MONTGOMERY

Chief of Police (Retired)
Professional Police Consulting, LLC

6251 W. 74th Ave
Westminster, CO 80003-3221

May 27, 2010

Richard Pryor, Chief of Police
Aspen Police Department
506 E. Main Street, Suite 102
Aspen, Colorado 81611

Dear Chief Pryor:

I have had the opportunity to review your organizational structure and your policies and procedures manual, and would like to take this opportunity to share with you my observations. Along with this report there are several attachments and the structure is essentially as follows:

- A. Report
- B. Resume
- C. Aspen Police Department Policies and Procedures Manual (with red ink observations and notations)
- D. Colorado Professional Law Enforcement Standards of the Colorado Association of Chiefs of Police and the County Sheriffs of Colorado
- E. Westminster Police Department Manual

Aspen Police Department Structure and Policies and Procedures Manual

Typically, when I evaluate a police department's policies and procedures Manual, I read it from cover to cover and make red ink notations on anything that tends to jump out, be it grammar, structure, content, etc. This gives me the opportunity to red flag areas that may be in need of grammatical or structural/content modifications, or which tend to jump out for other reasons. I do this because it makes it easier for me to read and understand the manual, and to highlight those areas that merit discussion. And that is what I have done here. Much of what you will see are simple notations referring to grammar or structural issues, and I will not be spending much time on those. What is important are those areas that have a red star and associated comments.

I reviewed the Aspen Police Department Organizational Chart, and found it very helpful in terms of being able to identify by name the employees of the department, what they are basically responsible for, what their rank or job title is, and who they report to. For purposes of defining the department in a traditional and hierarchical sense, utilizing the department, division, section and unit methodology, your organizational chart could

easily be modified and a separate, traditional approach could be utilized for inclusion in the manual. For example, at the top of the organizational chart, you would enter, "Aspen Police Department." Below that would be a box for the, "Chief of Police." Under the, Chief of Police, there would be two boxes. One would be labeled, "Operations Division," and the other would be labeled, "Administration Division." Under the Operations Division box would be two separate boxes—"Patrol Section" and "Investigations Section."

On the Administration Division side, there would be four boxes under the Administration Division box---"Community Safety Section," "Administrative Services Section," "Records Section," and "Community Relations Section." In the lower right corner of the organizational chart, you could add, "Revised _____," to indicate when the organizational chart is revised, giving you a tracking history.

By putting the traditional type of organizational chart in the manual, more permanence attaches and you don't have to go in every time there is a change in assignment, rank, attrition, etc. to make the necessary modifications. Additionally, you are able to stress the department, division, section and unit hierarchy. That is what I would do, and perhaps right behind the traditional chart, I would put the personalized chart.

When I visited your department to conduct the property-evidence audit, I had a chance to chat with you and Linda, as well as to chat with some of your folks who assisted in the audit. I did not attempt to conduct any demand and workload analyses, so I am not really able to make any reliable determination as to how adequately you are staffed. I did make two relatively casual observations however and will share them with you.

First of all, as you will see in the audit report, there is room for improvement in the overall operation of your property-evidence function, and Kim addresses several of these areas. Secondly, a complete inventory and a focus on purging old evidence is sorely needed, and in my conversations with Kim, such an inventory and purge would easily justify 1.0 fte over the next year or so to get your property-evidence function to where it should be. In my mind, knowing how important it is to maintain a high-level of integrity, efficiency and effectiveness in a property and evidence function where you store guns, drugs, money, jewelry and other items of value, I would seriously consider having one full time employee devoted exclusively to the property-evidence function. And that box on your organizational chart would simply be labeled, "Property and Evidence."

The only other observation I would have concerning your organizational structure, would be in the area of demand and workload in your Operations Division. I am very familiar with a position I created years ago to serve as a buffer between the line police sergeants and the division head, and that position was a, "police commander," a hybrid of the lieutenant and captain rank. This individual was referred to as the, "patrol commander," and handled a great deal of the logistical complexities that are so typically involved in a line police operation. And, when the division head was not present, this police commander stepped in and assumed temporary command of the operations division. Again however, I do not have any data with regard to your department that would

indicate if in fact such a position is needed, but it is certainly something you may want to think about.

In going through your manual page by page, I made several notations, and aside from any grammatical and/or structural comments, I would like to take this opportunity to expand a bit.

1. Page 2: As I started to review your manual, and as I indicated to you, I really liked the simplicity of your approach where you defined and highlighted the areas identified as the, "Table of Contents," and followed that with the section you defined as, "Policies." However, as I got into the manual, it occurred to me that there was a substantial amount of bleed-over from sections I through XXXI, to the policies on pages 19 through 70, and perhaps a unified approach would be a better course of action to pursue, especially considering the fact that you are very interested in pursuing Colorado Professional Law Enforcement Standards Accreditation, something I will discuss in more depth later in this report.
2. Page 3: I like your vision statement, and from my perspective I would add only one thing, and that is the traditional core value behind all policing efforts—the enforcement aspect. Consequently, additional language along the lines of, "vigorously and responsibly enforcing laws and ordinances, and respecting the rights of our citizens," might be language you could add that would reinforce your vision statement and remind your troops what they are all about.
3. Page 4: I counted seven, "pillars of character."
4. Page 6: I was struck by the fact that right up front, in sections II and III, disciplinary actions are mentioned, and in an attempt to make the manual appear less punitive in nature and more personable, I recommended that both of these sections be moved to standards of conduct further back in the manual where they probably should be.
5. Page 10: Again, I focused on the department, division, section and unit hierarchy, cleaning up the discrepancies.
6. Page 12: In Section XIV, consideration could be given to moving field training to training in XVII and combining all training in one area. With regard to XVIII, prohibited acts while on duty could be moved to standards of conduct.
7. Page 15: In XX, Complaint Resolution, this section needs rebuilding to bring in Garrity, Miranda, attorney representation, fairness of interviews, etc. In the Colorado Professional Law Enforcement Standards (hereafter referred to as, "the Standards,"), this is a very significant area having numerous standards that are required for accreditation.

8. Page 19: I would attempt to clarify and explain the differences between on-duty, off-duty and extra-duty.
9. Page 20: I would attempt to re-write this particular section to reflect reasonable suspicion stops (Terry vs. Ohio), and probable cause for arrest. For example, identify what exactly reasonable suspicion stops are, when they can be initiated, and how they can lead to probable cause. And I would solicit the assistance of a good police practices civil attorney to help you. This is a huge area in law enforcement today, and we are seeing this area pop up more and more in police civil litigation issues.
10. Page 22: This is another area looming large in the civil arena and more and more departments are issuing strong directives that when off-duty, one has to consider his or her lack of equipment, lack of immediate backup, etc. etc. before deciding to get involved as a police officer. Most often the best course of action to take is simply doing nothing and being a very good witness, unless of course the reasons for involvement are extremely compelling.
11. Page 25: With regard to the policy on not conducting undercover drug operations and not using paid informants, I have never seen a policy like this before, but certainly understand why it is in place. I am assuming that such investigations are done, but not by employees of APD.
12. Page 29: There does not appear to be any provisions for booking drugs and drug paraphernalia, nor is there anything concerning the booking of money.
13. Paged 32 and 33: CIRSA recently implemented an optional model policy for agencies they insure, addressing this issue of off-duty responsibility, and emphasizing that the best course of action for an officer to pursue is again, being a good witness and doing nothing else.
14. Page 37: With regard to this section covering intermediate and less lethal weapons, perhaps move the entire section to the use of force section and merge.
15. Page 47: It is my recommendation that whenever there is an officer-involved domestic violence incident involving a criminal investigation and an administrative investigation, it is wise to first complete the criminal investigation. Once the criminal investigation is complete, then the administrative investigation should be initiated. That way you are able to keep Miranda and Garrity separate, and you are able to use whatever is uncovered in the criminal investigation as part of the basis of the administrative investigation.
16. Page 48: Concerning officer involved shooting incidents and in custody deaths, I was wondering whether or not there is any multi-agency shoot team or critical incident team that conducts such investigations, at the request of the chief of

- police of the officer involved. I am very used to such an approach, and am just curious as to what is occurring in your area.
17. Page 50, section 8: Again, hold off on the administrative investigation until the criminal investigation is complete (see also #15 above).
 18. Page 52: Regarding the term, "Mental retardation," there is currently a national movement afoot to eliminate this term and use instead, "developmentally disabled."
 19. Page 60: Under consent searches, a new law recently went into effect in Colorado requiring police officers to obtain a waiver from, and tell those who are being asked to give consent to a search, that they have the right to refuse.
 20. Page 60: Under motor vehicle searches, there was some case law out of Arizona recently that altered the laws on searching motor vehicles. This is an area that should probably be researched.
 21. Page 68: Again, indicate under off-duty police actions, that the best decision an officer could make might be to not get involved and simply be a good witness.
 22. Page 70 and 71: Concerning legal justifications, add some language to the effect that under *Graham vs. Conner*, actions taken must be objectively reasonable considering the totality of circumstances. Many police departments are starting to build in the language of *Graham vs. Conner* in their use of force policies.

Colorado Professional Law Enforcement Standards

The Colorado Professional Law Enforcement Standards, as adopted by the Colorado Association of Chiefs of Police (CACP), and the County Sheriffs of Colorado (CSOC), are included as an attachment, and knowing that you are very interested in pursuing state accreditation, I have taken the liberty in this report of summarizing the major category areas of accreditation and what the particular mandatory standards and provisional standards are under each category. There are approximately 185 professional standards that a police department needs to build into their department manual and/or have in place to achieve accreditation. The vast majority, almost all of these standards, are mandatory.

Achieving state law enforcement accreditation is a very significant and desirable accomplishment for a chief of police and his or her police department. First of all, accreditation shows that your policies, procedures and rules conform to a defined set of professional standards as confirmed by an independent assessment team. Secondly, accreditation helps prove to your community and your employees that you as the chief executive officer of your organization are firmly devoted to the principles of professional policing. And lastly, accreditation is one of several weighted factors that CIRSA uses in determining your annual liability premiums, thus lowering your overall insurance costs.

A summary of the Colorado accreditation categories and standards follows:

Section 10.1 and 10.2: Oath of Office and Code of Ethics: Oath of office and code of ethics.

Sections 20.1-20.12: Force and Firearms: Use of force and use of force continuum; use of deadly force; fleeing felon; internal distribution of policies; warning shots; off-duty ammunition and firearms; less lethal tools; non-issued personal firearms; written reports of firearms discharges; firearms proficiency; semi-annual qualifications; approved weapons and ammunition.

Sections 40.1-40.4: Organization, Accountability and Authority: Graphic organizational chart; unity of command; responsibility commensurate with authority; use and/or non-use of delegated authority.

Sections 50.1-50.8: Code of Conduct and Discipline: Code of conduct and appearance; availability of this code to all employees; employee recognition; training as a function of discipline; counseling as a function of discipline; punitive actions as a function of discipline; disciplinary appeals; maintaining records of disciplinary actions.

Sections 60.1-60.14: Hiring, Recruit Probation and Training: Background investigation; candidate credentials and references; using qualified professionals for psychological evaluations; 12-month probation period; POST graduation prior to performing police duties; FTO program; academy staff liaison assignment; FTO rotations; FTO selection process; FTO training requirements; FTO evaluations of recruits; FTO-recruit training officer; annual re-training requirements.

Section 70.1: Performance Evaluations: An annual performance evaluation.

Section 80.1: Personnel Staffing Allocation: Patrol workload assessment.

Sections 90.1-90.12: Pursuits and Emergency Response: Pursuit governance; evaluation of circumstances; initiating officer responsibilities; secondary units; dispatcher responsibilities; supervisory responsibilities; use of roadblocks and stop sticks, etc; terminating a pursuit; outside jurisdiction pursuits; pursuit critiques; response to routine and emergency calls; pursuit policy distribution to employees.

Sections 100.1-100.2: Marked Vehicles: Conspicuous marking for patrol use; lights, siren and radio.

Sections 110.1-110.2: Uniforms: Uniform specifications and body armor.

Sections 120.1-120.7: Canine-Equine Use: Handler training; handler training by recognized source; use of animals; searches, tracking, explosives and drugs; physical force guidelines; animal care; vehicles for animals.

Sections 130.1-130.2: Juvenile Investigation: Dealing with juvenile offenders; social services listings and availability.

Section 140.1-140.3: Community Partnerships: Partnering with the community; use of problem solving strategies; sustaining community-wide partnerships.

Section 150.1-150.15: Critical Incidents: SWAT and other specialized units; SWAT deployment; crisis negotiation callouts; special use vehicles; decoy operations; undercover surveillance; incendiary/explosive devices; bomb threats; special events; VIP protection; homeland security emergencies; civil disorder; incident command system and national incident command system; accessibility of emergency operation plans; search and rescue (provisional).

Section 160.1-160.13: Tactical and Crisis Situations: Barricaded person/hostage situations; SWAT/negotiator callouts; notifications; perimeters; evacuations; command posts and chain of command; fire rescue and ambulance services; media access; use of lethal and less lethal force; negotiations; hostage situation negotiations; SWAT-negotiator communications; using a chase/surveillance vehicle.

Section 170.1-170.24: Internal Affairs: IA function; IA activities; IA complaint investigation; supervising the IA investigation; IA confidentiality and records; categories of complaints requiring investigations; IA supervisor reporting to chief of police; IA policies dissemination; employee rights and notifications; all complaints requiring investigation; notification of complainant; records security; conditions for interviewing employees; notification regarding identity of interviewers; location and duration of IA interviews; compensation; manner of interviews; IA publicity; documentation of and access to interviews; Garrity and Miranda warnings; using instruments, e.g. polygraph, VSA, etc.

Section 171.1-171.6: Administrative Procedures for Personnel: employee activity; employee personnel files; employee organizations; medical/chemical tests and drug screens; employee due process rights; employee discrimination.

Section 180.1-180.5: Prisoner Transport and Restraint: Prisoner searches; restraining during transport; opposite sex transportations; special situation transports; vehicle inspections and searches.

Section 190.1-190.10: Prisoner Rights and Welfare (Non-Detention Facility): Media access to holding facility; opposite sex supervision; access to attorneys; arrestee visitation rights; juvenile separation; male-female separation; holding facilities; bail; access to telephones; use of electronic surveillance equipment.

Section 200.1-200.15: Evidence and Property: Receiving property and evidence; logging in evidence and property; logging in prior to end of watch; detailed reporting; packaging and labeling; extra security, valuable items; owner notification; temporary and final release of property; on-scene property management; storage security; annual

inventory and audit; authorized access; prompt disposition of property; property and evidence records.

Section 210.1-210.6: Records; reporting categories; supervisory review of field reports; report distribution; records privacy and security; handling of funds; NIBRS reporting.

Section 220.1-220.6: Communications: Responsibility and authority; access to criminal justice systems; 24-hr. toll-free access for emergency calls for service; providing necessary external services; security measures; equipment protection and backup measures.

Section 230.1-230.7: Legal Process: legal process serving (provisional); records of process serving (provisional); civil service directives (provisional); civil seizure of property (provisional); warrant service (provisional); arrest warrants (provisional); seized property accounting (provisional).

Section 240.1-240.6: Court Security: Court security in general (provisional); facilities, equipment and plans (provisional); weapon lock boxes (provisional); use of restraints (provisional); equipment use (provisional); court security communications (provisional).

Section 250.1-250.4: Victim-Witness Assistance: victim and witness rights; services provided; next of kin notifications.

Westminster Police Department Manual

I have enclosed a full, non-duplexed copy of the Westminster Police Department Manual for your review, and will e-mail you a zip file of the manual as well. I am doing this for several reasons:

1. As a part of my 45 year career in municipal law enforcement, I spent the last 25 as the Chief of Police in Westminster, Colorado. During this time period, we were able to maintain our Colorado Accreditation (since it was implemented in the late 80's). The process we used any time we revised our manual was referred to as a, "staff review," where all supervisors had input before a particular section of the manual was revised. As a chief of police, and before that, as a police captain in charge of the research and development function of the Lakewood, Colorado Police Department, I have had the opportunity to review and evaluate many, many department manuals and sections within those manuals. The Westminster accredited manual I have enclosed is something I am personally and professionally proud of, and quite familiar with, and I only offer it as an example of what can be accomplished, especially in terms of organization and ease of revision.
2. I have found over the years that when it comes to department manuals and professional standards, there is an incestuous relationship between police departments in the sense that most manuals and sections within those manuals are

very similar and very borrowed. Manuals certainly have their own identity and character, but the genetic origins and DNA, as we all know, result in very similar looking department manuals.

3. If a chief of police is looking to refine his department manual, as you are, to the extent of achieving Colorado Accreditation, it has been my experience that it is much easier to start with an accredited manual and mold it to fit your needs, as well as the needs imposed by Colorado Accreditation. In other words, it is easier and causes much less brain damage to buy a new house that has already been inspected and certified, remodeling and tailoring it to fit your needs, than it is to build a house from scratch and go through all the inspections and certifications that are required. As the current interim Chief of Police in Lochbuie, Colorado, that is precisely what I am currently doing—taking an accredited manual and molding it to suit my needs in Lochbuie. It just makes sense.

It is my recommendation to you Richard that if you decide to go forth to achieve Colorado Accreditation, don't build a new house. Get a new one and remodel it to fit your needs. Your department manual already contains many provisions that satisfy Colorado Accreditation, so the remodeling I speak of is partially underway already. And you don't have to use the Westminster manual. Just use one that is already Colorado Accredited and start the remodeling project.

I hope this effort has been helpful to you and again, please don't hesitate to contact me if you have any questions or need any clarifications.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Montgomery". The signature is fluid and cursive, with the first name "Dan" being particularly prominent.

Dan Montgomery, Chief of Police (Retired)

Cc. Kim Barron