

Baker&Hostetler LLP

1801 California Street
Suite 4400
Denver, Colorado 80202-2662

T 303.861.0600
F 303.861.7805
www.bakerlaw.com

Marc D. Flink
direct dial: 303.764.4030
MFLink@bakerlaw.com

JULY 27, 2018

VIA EMAIL AND U.S. MAIL

PAUL.PAZEN@DENVERGOV.ORG

Chief Paul M. Pazen
Denver Police Department
1331 Cherokee Street
Denver, CO 80204-4507

Re: The Public's First Amendment and Statutory Right to Photograph/Video Police

Dear Chief Pazen:

Thank you for your letter dated July 10, 2018 that I received on July 25 in an envelope postmarked July 23, 2018. I forwarded your letter to the Colorado Broadcasters Association (“CBA”), the Colorado Press Association (“CPA”), and the Colorado Freedom of Information Coalition (“CFOIC”). While the CBA, CPA, and CFOIC appreciate receipt of a response to my July 9 letter on their behalf, all were disappointed in what they considered to be a dismissive non-substantive response that left them concerned that the Denver Police Department (which was not under your leadership until recently), the Department of Safety, and the City and County of Denver, have not given matters concerning Denver police officer interference with citizens exercising rights to photograph and video police or other public officials in public spaces the priority it deserves.

The CBA, CPA, and CFOIC’s concern with your response was heightened by your failure to address their request that the City and County of Denver and its Department of Safety advise the public through a press release of the immediate steps that will be taken to ensure that all Department of Safety employees are educated and trained on the right of Colorado citizens to photograph or video police officers in public spaces. Absent public acknowledgment and recognition that more and better training on the rights of citizens and the press to record police activities in public spaces needs to be undertaken, there can be no confidence that the training Denver police officers receive on “constitutional issues” and instruction on the “policy [104.58] that addresses recording police activities” are adequate on these issues. The CBA, CPA, and CFOIC reiterate their request that the City and County of Denver and its Department of Safety advise the public through a press release of the immediate steps that will be or have been taken to ensure that all Department of Safety employees are educated and trained on the right of Colorado citizens to photograph or video police officers in public spaces.

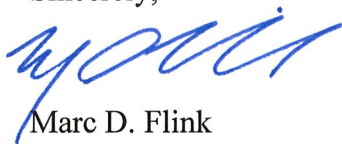
The policy to which you refer in your letter appears to be Policy 104.58 in the Denver Police Department Operations Manual as a subpart to Section 104 "Arrests" that is titled "Search and Seizure of Electronic Recording Devices (added 11/2015)." While subpart (3) of that policy is titled "RIGHTS OF THE PUBLIC TO OBSERVE AND RECORD POLICE ACTIVITY," the importance of this part of the policy warrants a separate policy section under a heading such as "Public Rights" (e.g. a new 122.00) or inclusion in Section 110.00 Public Relations.

The CBA, CPA, and CFOIC believe that they can be of assistance to the City and County of Denver and its Department of Safety in the development of enhanced training on First Amendment issues. They propose that they be provided an opportunity to review the current training program, including but not limited to the content of the program, the identity and qualifications of the person(s) delivering the program, the frequency of delivery of the program and refreshers to Denver police officers, and any testing or retention measurement used as an indicator of program quality. To assist the Department of Safety and Denver Police Department in training on these important matters, the CBA, CPA, and CFOIC offer to facilitate and work with the providers of an educational training program and be available for Q&A sessions with police officers regarding first amendment rights of citizens and the press to record police activities in public spaces. Please let the CBA, CPA, and CFOIC know how they can be of assistance to the education of Denver police officers on these matters.

Finally, the CBA, CPA, and CFOIC request that when the internal investigation referenced in your letter is concluded, they be informed of the outcome.

Thank you for your attention to this important matter of public interest and concern

Sincerely,



Marc D. Flink

cc: Colorado Broadcasters Association
Colorado Freedom of Information Coalition
Colorado Press Association
Troy Riggs troy.riggs@denvergov.org
Kristin M. Bronson Kristin.bronson@denvergov.org