



INTRODUCTION AND OVERVIEW

In order to ensure transparency in the investigation and review of critical incidents (officer-involved shootings and in-custody deaths) involving the Denver Police and Sheriff Departments, the Independent Monitor submits this report each quarter regarding the status of investigations into these incidents and decisions made by the Departments regarding officer conduct.

In all officer-involved shootings and in-custody deaths, the Denver Police Department (DPD) is initially charged with conducting a criminal investigation to determine whether any person should be held criminally liable for the death or serious bodily injury of any person killed or injured as the result of a law enforcement action. Thus, DPD's Homicide Bureau and the District Attorney's Office immediately respond to investigate all critical incidents. In addition, the Independent Monitor's Office responds to the each critical incident scene for a walkthrough of the scene (consistent with the constraints of 4th Amendment privacy rights) and a debriefing from command staff about the incident. Homicide detectives spend considerable time and effort interviewing all witnesses and involved officers and obtaining appropriate reports from all involved parties. The Monitor's Office monitors all video interviews conducted by the Homicide Unit and is given the opportunity to suggest that additional questions be asked at the conclusion of each interview. Only after the criminal investigation is complete, can the administrative investigation and review process begin.

DENVER POLICE DEPARTMENT

[Officer-Involved Shooting and In-Custody Death Investigation and Review Protocol:](#)

In all cases where a Denver police officer intentionally discharges his or her firearm at a person or where a person dies in police custody, the incident is automatically investigated by the Homicide Unit of the Denver Police Department under the supervision of the Denver District Attorney's Office. The investigation is actively monitored by the Office of the Independent Monitor. The District Attorney's Office and the Monitor's Office are both notified as part of the critical incident roll-out protocol. The District Attorney Office is primarily concerned with determining whether the involved officer(s) committed any violation of the criminal law; the Monitor's Office is primarily concerned with potential violations of Police Department rules and policies.



Once the District Attorney has decided whether it will file criminal charges against anyone involved in the incident (including the officer(s)), the Homicide Unit reports are submitted to the Internal Affairs Bureau to commence the administrative investigation to determine whether the involved officer(s)' actions are in violation of any Police Department policy or procedure. The Monitor's Office confers with Internal Affairs to determine whether further investigation is necessary from an administrative perspective. Once the administrative investigation is completed, the case is then submitted to a Use-of-Force Board (consisting of the Police Department's four Division Chiefs and two civilian volunteers and chaired by the Commander of Internal Affairs) to determine whether any violations of the Police Department's use-of-force policies have occurred. The Monitor's Office is present during all Use-of-Force Board proceedings and deliberations.

If the Use-of-Force Board finds that the officer's actions were in compliance with Department policy ("in-policy"), the case is forwarded to the Chief of Police for his review. If the Chief of Police and the Independent Monitor agree that there were no policy violations, the case is closed and no further administrative action is taken. If either the Chief of Police or the Independent Monitor disagree with the "in-policy" recommendation, the case will be forwarded to the Manager of Safety, who is the ultimate decision-maker on disciplinary matters other than reprimands.

If the Use-of-Force Board finds that the officer's actions were in violation of any Department policy ("out-of-policy"), the Use-of-Force Board then makes a recommendation to the Chief of Police as to whether the officer should be disciplined. If the disciplinary recommendation is above the level of a reprimand, the officer has the opportunity to request a hearing before a Disciplinary Review Board (DRB) (consisting of 3 citizen volunteers, 1 peer officer, 1 supervisory officer and 1 command officer). The Independent Monitor is present during the DRB proceedings and deliberations. After deliberating, the DRB makes its own disciplinary recommendations to the Chief of Police. The officer is then given the opportunity to respond to the allegations and provide any mitigating statements to the Chief of Police at a "Chief's Hearing" (also known as a pre-disciplinary meeting). The Independent Monitor makes a disciplinary recommendation to the Chief of Police. Both the Chief's recommendation and that of the Monitor are forwarded to the Manager of Safety for his consideration.



The Independent Monitor reports to the public on all disciplinary orders issued by the Manager of Safety on a quarterly basis and in an Annual Report, which is released by March 15th of each year. The Manager of Safety also issues his own public statement on all police shootings resulting in a death or where the shooting has resulted in an injury or death and has been found to have been “out-of-policy.”

Timeliness

Timeliness of investigations is essential to ensuring the integrity of internal affairs processes. Timely investigations are important to employees, who legitimately expect finality in the disciplinary process. Timely investigations also ensure that employees are held accountable for misconduct and that the imposition of discipline can have a positive effect on future performance. Additionally, timely investigations assist the City in sending a message to the public that the Denver Police Department can and, in fact, does police itself and ensures the credibility of the administrative and disciplinary processes.

The OIM has established a goal that the Police Department resolve critical incident investigations within six months of the incident. It must be acknowledged, however, that in some unusual cases it will take longer to complete an investigation than the goals established by the Police Department and the Monitor’s Office.

[Officer-Involved Shooting Cases Pending Administrative Review as of the end of the 1st Quarter, 2008:](#)

- **April 4, 2007:** An officer fired one shot at a suspect who was attempting to escape apprehension by driving his vehicle directly at the officer– the suspect was injured and later arrested after evading pursuing officers. A District Attorney shooting letter was issued on May 7, 2007 (See, denverda.org/News_Release/Decision_Letters). Case pending review by the Manager of Safety. The case was referred to the Manager’s Office for resolution in December 2007 but no disciplinary decision has yet been made by the Manager of Safety.
- **December 19, 2007:** An officer was on routine patrol late at night when he decided to run a routine check on a vehicle plate to see if the vehicle was



stolen. When he started to follow the vehicle, the driver stopped the vehicle and ran from the officer. At the conclusion of a short foot pursuit, the suspect confronted the officer, brandished what appeared to be a firearm and threatened to kill the officer while identifying himself as a member of a criminal street gang. The officer fired two shots at the suspect, who continued to approach and challenge the officer. The officer fired four more shots at the suspect, who was fatally injured.

On January 24, 2008, the District Attorney issued a public letter concluding that no criminal charges would be filed against the involved officer.

The Use-of-Force Board reviewed the incident on February 26, 2008. A public report from the Manager of Safety is pending because the shooting resulted in a fatality.

Officer-Involved Shooting Cases Administratively Closed in the 1st Quarter, 2008:

- **November 12, 2007:** An officer conducted a traffic stop on the driver of a suspicious vehicle. When the officer tried to “pat down” the passenger in the vehicle for weapons, the suspect dropped a bag of cocaine and attempted to flee. When the officer attempted to stop the suspect, the suspect hit the officer and knocked him to the ground. The suspect then proceeded to attack the officer, who was able to pull out his firearm and fire one shot, wounding the suspect. The officer was then able to take the suspect into custody.

On December 28, 2007, the District Attorney issued a public letter concluding that no criminal charges would be filed against the involved officer.

The Department concluded that the shooting was “in-policy.” The Monitor concurs with that finding. The officer was in immediate danger of losing his firearm and could have been killed by the suspect. The officer was alone and his decision to resort to the use of deadly force to protect himself was warranted.



- **November 14, 2007:** Two officers in plain clothes were having lunch at a restaurant. An armed robber walked into the restaurant brandishing a shotgun. The suspect was acting aggressively and the officers drew their weapons and fired at the suspect, who fired a shotgun blast in their direction. The suspect was wounded and then taken into custody. Three civilians who were behind the suspect were also wounded by the officers' gunfire.

On January 17, 2008, the District Attorney issued a public letter concluding that no criminal charges would be filed against the involved officers.

The Department concluded that the shooting was “in-policy.” The Monitor concurs with that finding. Although it was unfortunate that the civilians were injured by the officers' gunfire, the officers had little choice but to engage the suspect. He was in the process of robbing the patrons and would have been able to identify them as police officers due to their identification and badges. The officers were forced to make a split-second evaluation as to whether the suspect would have shot them once he realized that they were officers. Based on their observations, they reasonably believed that they would have likely been killed or seriously injured and were forced to take immediate action.

[In-Custody Death Cases Pending Administrative Review as of the end of the 1st Quarter, 2008:](#)

- **October 2007. Fatal Traffic Collision.** A passenger died after the vehicle in which he was traveling was struck by a police car traveling Code-10 (lights and sirens) through a red light. Pending a criminal prosecution of the involved officer by the Denver District Attorney's Office for two misdemeanor charges (careless driving causing death and careless driving causing substantial bodily injury). The administrative review of the incident has been suspended pending the conclusion of the criminal prosecution.
- **October 2007. In Custody Death.** A suspect died after being taken into custody using take-down and control holds. Pending Use-of-Force Board review.



In-Custody Death Cases Administratively Closed in the 4th Quarter 2007:

- None.

DENVER SHERIFFS DEPARTMENT

In-Custody Death Investigation and Review Protocol:

In all cases where a person dies while in the custody of the Denver Sheriff Department (DSD), the incident is automatically investigated by the Homicide Unit of the Denver Police Department. The investigation is actively monitored by the Office of the Independent Monitor. The Sheriff's Internal Affairs Bureau and the Monitor's Office are notified as part of the critical incident roll-out protocol. If the in-custody death is believed to have been the result of actions by an employee or other inmate, the District Attorney's Office is notified in order to respond to the scene and supervise the criminal investigation. The District Attorney is primarily concerned with determining whether the involved officer(s) committed any violation of the criminal law; the Monitor's Office is primarily concerned with potential violations of Sheriff Department rules and policies.

Once the District Attorney has made a filing decision (in those cases where an officer is alleged to have caused a death), the Homicide reports are submitted to the Sheriff's Internal Affairs Bureau for its review and handling. The Sheriff's Internal Affairs Bureau will usually also conduct its own parallel administrative investigation of the incident. The Monitor's Office works with Internal Affairs to ensure that the investigation is thorough and complete. Once the investigation is deemed complete, it is submitted to the appropriate Division Chief for review and findings.

If the Division Chief finds that the involved officer's actions were in compliance with Sheriff Department policy ("in-policy"), the case is forwarded to the Director of Corrections to make a recommendation to the Manager of Safety, who is the ultimate decision-maker on disciplinary matters other than reprimands. The Independent Monitor reviews the Division Chief's findings and makes his own recommendations to the Director and the Manager as well.



If the Division Chief or the Director finds that the involved officer's actions were in violation of any Department policy ("out-of-policy"), the case is referred to the Director for a "Pre-Disciplinary Hearing." That hearing is conducted by the Department's three Division Chiefs and is chaired by the Director of Corrections. The Independent Monitor observes the hearing and the deliberations of the Command Staff. At that hearing, the involved deputy is given the opportunity to present his or her side of the story including any mitigating factors that might exist. After hearing from the involved deputy, the Independent Monitor makes his disciplinary recommendations to the Director. Both the Director's recommendation and that of the Monitor are forwarded to the Manager of Safety for his consideration. The Manager of Safety is the ultimate decision-maker as to whether the deputy's actions were "in-policy" or "out-of-policy" and what the appropriate level of discipline should be, if any.

The Independent Monitor reports to the public on all disciplinary orders issued by the Manager of Safety on a quarterly basis and in his Annual Report, which is released by March 15th of each year.

Timeliness

Timeliness of investigations is essential to ensuring the integrity of internal affairs processes. Timely investigations are important to employees, who legitimately expect finality in the disciplinary process. Timely investigations also ensure that employees are held accountable for misconduct and that the imposition of discipline can have a positive effect on future performance. Additionally, timely investigations assist the City in sending a message to the public that the Denver Sheriff Department can and, in fact, does police itself and ensures the credibility of the administrative and disciplinary processes.

The OIM has established a goal that the Sheriff Department resolve critical incident investigations within six months of the incident. It must be acknowledged, however, that in some unusual cases it will take longer to complete an investigation than the goals established by the Sheriff Department and the Monitor's Office.



Sheriff In-Custody Death Cases Pending Administrative Review as of the end of the 1st Quarter 2008:

- **February, 2008 In-Custody Death.** An inmate committed suicide in the County Jail. Pending administrative investigation by Internal Affairs.

Sheriff In-Custody Death Cases Administratively Closed in the 1st Quarter, 2008:

- **February, 2007 In-Custody Death.** An inmate committed suicide in the County Jail by hanging himself with a bed sheet from his bunk bed. When the inmate was discovered, his body was in full rigor mortis. The investigation determined that the inmate had been dead for more than an hour before he was found by another inmate.

The involved deputy was ordered terminated by the Manager of Safety for failing to adequately monitor his assigned section of the jail and based on his prior disciplinary history. The Monitor concurs with the termination decision.

- **December, 2007 In-Custody Death.** An inmate committed suicide in the County Jail. No misconduct was identified. DSD officers were determined not to have been responsible for the inmate's death. No report from the Manager of Safety is required.

MANAGER OF SAFETY

Cases Administratively Resolved – Still Pending a Report from the Manager of Safety:

- **December 19, 2007 fatal shooting:** (please see infra). Administratively resolved by the Use-of-Force Board on 2/26/08.