



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 (“Departments”), the Office of the Independent Monitor (“OIM”) submits this report each quarter regarding the status of investigations into these incidents and disciplinary decisions made, if any, 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 the scene of all critical incidents to commence an investigation. In addition, the OIM responds to 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, every involved officer and obtaining appropriate reports from all involved parties. The OIM monitors all video interviews conducted by the Homicide Unit and is given the opportunity to suggest additional questions be asked at the conclusion of each interview. After the criminal investigation is complete, the administrative investigation and review process begins.

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 OIM. The District Attorney’s Office and the OIM are both notified as part of the critical incident roll-out protocol. The District Attorney’s Office is primarily concerned with determining whether the involved officer(s) committed any violation of the criminal law; the OIM is primarily concerned with potential violations of DPD rules, procedures 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’s reports are submitted to the DPD Internal Affairs Bureau to commence the administrative investigation to determine whether the involved officer(s)’ actions are



in violation of any DPD rule, policy or procedure. The OIM 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 DPD 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 DPD's use-of-force policies have occurred. The OIM 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 DPD policy ("in-policy"), the case is forwarded to the Chief of Police for his review. If the Chief of Police and the OIM agree there were no policy violations (in non-fatal shootings), the case is closed and no further administrative action is taken. If the incident involves a fatal shooting, the Manager of Safety makes the final determination and issues a public report. If either the Chief of Police or the OIM disagree with an "in-policy" recommendation, the case will be forwarded to the Manager of Safety, who will then make the decision whether to impose disciplinary sanctions 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 Use-of-Force Board recommends a disciplinary sanction more serious than 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 OIM 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 OIM can also make a disciplinary recommendation to the Chief of Police. Both the Chief's recommendation and that of the OIM are forwarded to the Manager of Safety for his consideration.

On a quarterly basis and in an Annual Report which is released by March 15th of each year, the Independent Monitor reports to the public on all disciplinary orders issued by the Manager of Safety. Also, within 6 months of any critical incident, the Manager of Safety issues his own public statement on all police shootings resulting in a death or where the shooting has resulted in an injury and has been found to have been "out-of-policy."



Timeliness:

Timeliness of investigations is essential to ensure the integrity of Internal Affairs processes. Timely investigations are beneficial to those employees involved in the administrative review process and uninvolved peers, sending a strong message that adherence to departmental rules, policies and procedures is important and that employees who violate such rules, policies and procedures will be held accountable for any wrongdoing. It also affords the Departments the opportunity to timely amend any of the rules, policies and procedures for the safety of its officers and for the community in general. Additionally, timely investigations send a message to the public that the Denver Police Department does police itself, ensuring the credibility of the administrative and disciplinary processes.

The OIM has established a goal that the DPD resolve critical incident investigations within six months of the incident. It must be acknowledged, however, that some cases will take longer to complete, due to their complexity.

Officer-Involved Shooting Cases Pending Administrative Review as of the end of the 1st Quarter, 2010:

- **December 13, 2009:** An officer shot and killed a man who was brandishing a firearm and who had reportedly been firing shots while walking through a neighborhood immediately prior to the contact. A District Attorney shooting letter was issued on January 2, 2010, concluding that no criminal charges would be filed against the involved officer. See: www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm).

An internal affairs review of the incident has been completed and the case is pending scheduling before a Use-of-Force Board. The review will include a review of an allegation that a second officer used unnecessary force when he struck the subject of the shooting in the head with his firearm during the course of the arrest and after the shooting.

- **March 7, 2010:** Two officers shot and injured a man who fled a felony traffic stop and drove his vehicle directly towards one of the officers. A District Attorney shooting letter was issued on March 17, 2010, concluding that no criminal charges would be filed against the involved officers. See: www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm).

No further Internal Affairs investigation was deemed necessary. The case is pending scheduling before a Use-of-Force Board.



Officer-Involved Shooting Cases Administratively Closed in the 1st Quarter, 2010:

None

In-Custody Death Cases Pending Administrative Review as of the end of the 1st Quarter, 2010:

- **January 5, 2010:** Police officers used a less lethal shotgun and a taser to take a man into custody who had stopped his car in the middle of the I-25 freeway and who refused to comply with orders. The man died several days after the use-of-force. The Homicide investigation reports were submitted to Internal Affairs and deemed complete and the case is pending scheduling before the Use-of-Force Board.

In-Custody Death Cases Administratively Closed during the 1st Quarter, 2010:

None

DENVER SHERIFF 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 OIM. The Sheriff's Internal Affairs Bureau and the OIM 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 OIM 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 OIM monitors 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 ("Director"). If the Director agrees there were no policy violations,



the case is closed. The OIM reviews the Division Chief's findings and makes recommendations to the Director and the Manager of Safety.

If the Division Chief, the Director, or the Manager of Safety 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 OIM 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 OIM makes disciplinary recommendations to the Director. Both the Director's recommendation and those of the OIM are forwarded to the Manager of Safety for his consideration. The Manager of Safety determines whether the deputy's actions were "in-policy" or "out-of-policy" and the appropriate level of discipline, if any (subject to review by the Career Service Authority and the courts).

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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 some cases will take longer to complete due to their complexity.

[Sheriff Officer-Involved Shooting Cases Pending Administrative Review as of the end of the 1st Quarter, 2010:](#)

- **February 18, 2010:** Deputies trying to serve a warrant shot at a fugitive who struck a Deputy with his vehicle as he was trying to escape. Because the fugitive



was not struck by a bullet, no District Attorney “shoot letter” is anticipated. An administrative review of the incident will be conducted by the Sheriff Department command staff upon the submission of Police Department Homicide reports and completion of any necessary internal affairs investigation.

Sheriff In-Custody Death Cases Pending Administrative Review as of the end of the 1st Quarter 2010:

- **September 17, 2009 In Custody Suicide:** An inmate committed suicide at the County Jail. An internal affairs investigation was completed by the end of the quarter and the case was pending command review.
- **November 28, 2009 In-Custody Death:** An inmate died due to an apparent pre-existing medical condition. An internal affairs investigation was completed by the end of the quarter and the case was pending command review.

Sheriff In-Custody Death Cases Administratively Closed in the 1st Quarter, 2010:

- **August 5, 2009 In-Custody Death:** An inmate being detained at Denver Health Medical Center suffered a seizure and subsequently died. An internal affairs investigation was conducted and no policy violations were identified.