



# DENVER

THE MILE HIGH  
CITY

*OFFICE OF THE INDEPENDENT  
MONITOR*

# ANNUAL REPORT 2008

RICHARD ROSENTHAL  
INDEPENDENT MONITOR



**DENVER**  
THE MILE HIGH CITY

**MESSAGE FROM  
THE INDEPENDENT  
MONITOR**

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March 16, 2009

I am pleased to present the fourth annual report of the City of Denver's Office of the Independent Monitor.

Civilian Oversight of Law Enforcement in Denver is comprised of two organizations; the Office of the Independent Monitor (OIM) and the Citizen Oversight Board (COB) – a group of seven community members appointed by the Mayor and confirmed by City Council as an advisory board for the Independent Monitor with the responsibility of evaluating and publicly reporting on the Monitor program.

As with last year, I would like to give thanks to all the members of the COB for their sage advice and counsel throughout the past year. The COB consists of dedicated volunteers who have helped me keep the Monitor program headed in the right direction and who regularly challenge me to explain my decisions and actions. The OIM and COB have worked together to make the OIM program an example of a “best practice” amongst civilian oversight programs nationally.

A significant challenge this year has been in explaining to the public and the police the role of the OIM. Certain members of the public have demanded that the OIM be more aggressive in its approach to Denver law enforcement agencies and have suggested that a diplomatic approach to oversight does not serve the community adequately. At the same time, some members of law enforcement have suggested that the Monitor is only interested in increasing discipline upon police officers whenever possible. The answer to these criticisms is in the mission statement of the OIM: We are dedicated to providing “fair and objective” oversight of the Police and Sheriff Departments. We will support the Departments and their employees when we believe they have acted appropriately and will urge improvement when we find deficiencies. We will publicly report on improvements that have been made, and if we believe a final decision to be unreasonable, we will publicly report on that conclusion and explain our concerns.

In the past year, the Manager of Safety, the Chief of Police, the Director of Corrections, and the Independent Monitor have agreed on the reasonableness of the ultimate disciplinary decisions that were made for the employees of the Police and Sheriff Departments. This is not because the Monitor's Office is abdicating our responsibility to challenge department decisions but due to extensive and continuing discussions and, sometimes, debate over the course of innumerable hours of time.

The Monitor's Office will not advocate in favor of or against a complainant or an officer until after all the facts are in and, then based solely on the provable facts available to us. We expect the departments to respectfully consider our input and we will provide them the same courtesy when considering their issues and concerns. We have found that respectful communication is more likely to result in long-term organizational improvements and best serves the Departments and the community by ensuring our recommendations are given adequate consideration.

Our job is to provide transparency to the complaint handling and disciplinary processes and to work to ensure effective, Constitutional policing in the City and County of Denver. Please accept this report as an explanation of how we have worked to try to achieve that objective.

Sincerely,

Richard Rosenthal  
Independent Monitor







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# EXECUTIVE SUMMARY

2008

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## ***Mission***

The mission of the Office of the Independent Monitor (OIM) is to monitor the Denver Police (DPD) and Sheriff (DSD) Departments, provide for fair and objective oversight of the uniformed personnel of these departments, and ensure public confidence in the ability of these departments to police themselves.

The OIM is responsible for: (1) actively monitoring and participating in investigations of uniformed personnel in the City and County of Denver's Police and Sheriff Departments; (2) making recommendations to the Chief of Police, the Director of Corrections and the Manager of Safety (who are responsible for discipline within the Police and Sheriff Departments) regarding administrative actions, including possible discipline; and (3) making recommendations regarding broader policy and training issues.

## ***Core Functions of the Monitor's Office***

The Monitor's Office "core functions" for 2008 included:

Monitoring and reviewing DPD and DSD critical incident investigations, specifically officer-involved shootings, in-custody deaths and uses of force resulting in great bodily injury or death. (This task includes the monitoring of Use-of-Force Review Board and Tactics Review Board deliberations and recommendations).

Monitoring the DPD and DSD internal affairs decision-making processes to ensure fairness and consistency in the assignment and handling of citizen and internally-initiated complaints and investigations.

Monitoring and making recommendations regarding formal DPD and DSD internal investigations to ensure that investigations are thorough, fair and complete.

Managing the citizen-police mediation program.

Monitoring and making recommendations on DPD and DSD findings after investigations and the imposition of discipline after sustained findings are made. (This task includes the monitoring of the deliberations and recommendations of Disciplinary Review Boards and Pre-disciplinary hearings).

Ensuring the citizen complaint process is accessible to the entire community and ensuring community members are aware of how their complaints were handled and why.

Monitoring the timeliness of the entire complaint handling and disciplinary processes for DPD and DSD.

## ***Status of Goals for 2008***

At the beginning of 2008, the OIM set certain goals for the year. In general, the OIM was able to achieve or make significant progress towards the implementation of the aforementioned goals.

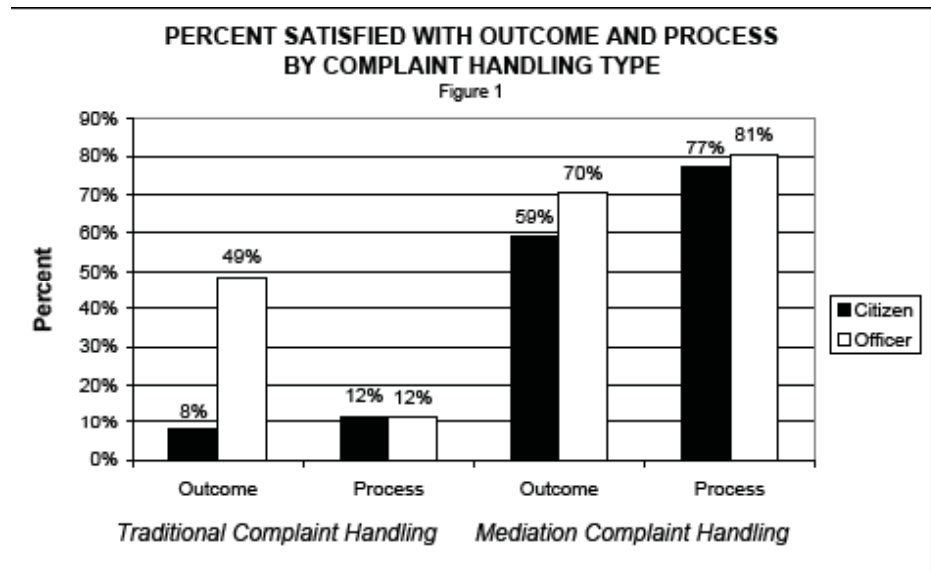
Goal: Follow up on the Police Assessment Resource Center (PARC) report to ensure recommendations regarding changes in DPD deadly force policies and critical incident investigations and administrative reviews are considered for implementation.

**Status of Goal:** The PARC report was published and made available to the public in June of 2008. The PARC report found that the Denver Police Department is currently a leader in the handling of deadly force incidents. The PARC report did, however, make 69 recommendations to further improve deadly force policies and investigations and reviews of critical incidents. The Chief of Police provided a comprehensive response to the report, agreeing in whole or in part, with 57 of PARC’s 69 recommendations. The status of the Department’s acceptance or rejection of these recommendations is outlined in detail in the “Special Initiatives & Policy Issues” chapter of this report.

**Goal:** Continue the use of the OIM community-police mediation program, while maintaining the program as the largest of its kind in the country and assisting other police agencies in implementing similar programs.

**Status of Goal:** As of the end of 2008, the OIM Mediation program has facilitated more than 150 community member-police mediations since the mediation program’s inception in December of 2005. A total of fifty mediations were conducted during the 2008 calendar year. This program continues to be one of the largest in the United States.

Both complainant and officer satisfaction with the mediation process and subsequent outcomes remained high throughout the 2008 calendar year. Also, both complainant and officer satisfaction remain exceptionally higher than satisfaction with the traditional Internal Affairs processes and subsequent outcomes as indicated in Figure 1.



**Goal:** Evaluate the implementation of the DPD Personnel Assessment System (an early intervention tool which identifies patterns in officer conduct and assists in identifying performance concerns) as well as assisting the Sheriff’s Department in the implementation of its own system.

**Status of Goal:** The DPD finalized its new Personnel Assessment System (PAS) in early 2008. At the end of 2008, the OIM was given the opportunity to audit the new system. While the program appears to be working very well, the OIM has recommended that the Department move away from strict numerical triggers and use statistical analysis to allow for a more sophisticated comparison of similarly situated officers. (For more information on the PAS and the OIM’s audit results, see Chapter 5 “Special Initiatives & Policy Issues” chapter of this report.) In addition, the OIM is discussing with the DPD whether demographic data from traffic and pedestrian stops can be incorporated into the PAS in the future.

**Goal:** Evaluate the new Disciplinary Matrix (created to make disciplinary decisions more objective and fair) and assist the DSD in the creation of a similar matrix.

Status of Goal: The DPD’s new Disciplinary matrix was implemented as of October 1, 2008. Consequently, it is too early to formally evaluate the policy. The Monitor, however, worked closely with the Department in the creation of the new policy and continues to believe that it is a best practice when compared to other disciplinary processes nationwide.

Goal: Increase the timeliness of disciplinary review boards and Chief’s Hearings within the DPD.

Status of Goal: The DPD made substantial improvements in the timeliness of disciplinary review boards (DRB’s) and Chief’s Hearings during the 2008 calendar year. In all cases, DRB’s and Chief’s Hearings were conducted as soon as possible when individual cases were ready for review. (For more information, see the Timeliness Section of Chapter 2 (“DPD Monitoring”) of this report).

## 2009 Goals

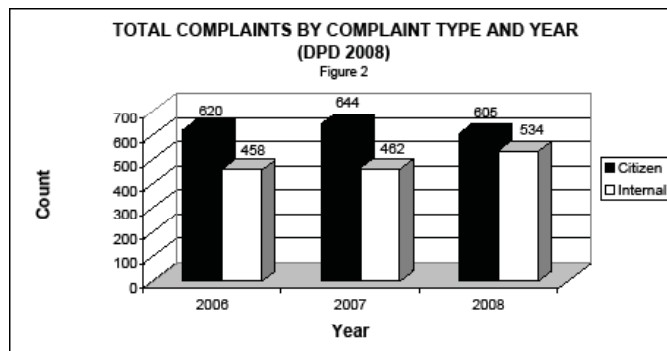
The OIM has set the following goals for the upcoming year:

1. Continue to follow-up on the Police Assessment Resource Center (PARC) report to ensure recommendations regarding changes in DPD deadly force policies and critical incident investigations and administrative reviews will be considered for implementation.
2. Continue the use of the OIM community-police mediation program, while maintaining the program as one of the largest of its kind in the country and assist other police agencies in implementing similar programs.
3. Conduct annual evaluations of the DPD Personnel Assessment System and ensure an effective evaluation of officer comparisons and evaluate the possibility of incorporating demographic data from pedestrian and traffic stop for analysis into the system.
4. Assist the Denver Sheriff’s Department in the creation of a disciplinary matrix and an early intervention system.
5. Improve the timeliness of imposition of discipline for the DPD in all cases where a sustained finding is made.
6. Evaluate the DPD’s policy, training and practices with respect to responding to “excited delirium” type cases, specifically those resulting in in-custody deaths. (See “Critical Incident Review,” Chapter 4 for more information).

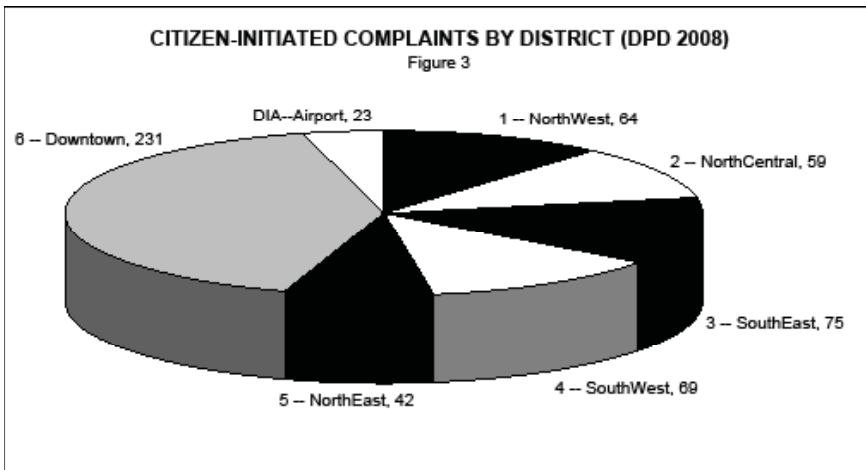
## DPD Monitoring

In 2008, the Denver Police Department received or initiated 1,139 complaints of which 605 were citizen-initiated. The total number of complaints in 2008 decreased by 6.1% compared to 2007.

Discourtesy (21.6%), improper procedure (18.7%), and unnecessary force (18.5%) were the three most common allegations involved in citizen/internal complaints.



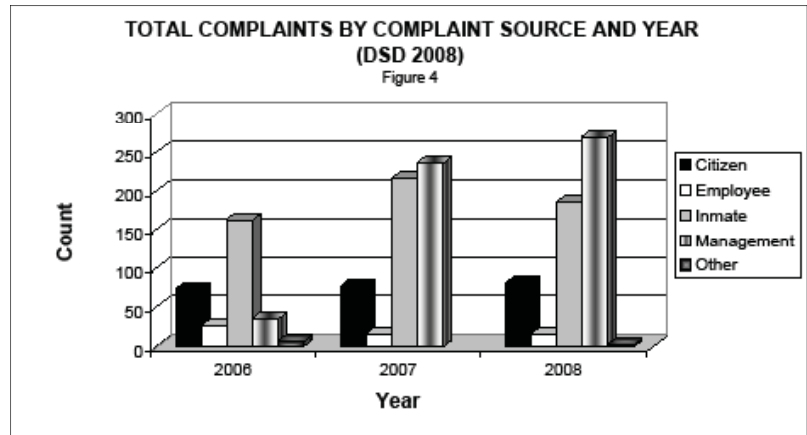
Police District Six accounted for 38.3% of the total citizen-initiated complaints which translates into a complaint rate of 4.04 per 1,000 residents. The lowest complaint rate 0.43% was found in District Three. District Five accounted for the fewest number of complaints with 7% of the total; however, because of the District's comparatively low population, the District had the second highest rate at 1.10 per 1,000 residents.



In 2008, DPD officers received 683 departmental awards; a significant increase from the 538 received in 2007. Official Commendations were the most frequent type of commendation received accounting for 24.6% of the total. Other frequent commendations included Commendatory Action Reports (23.1%) and Letters of Appreciation (14.3%).

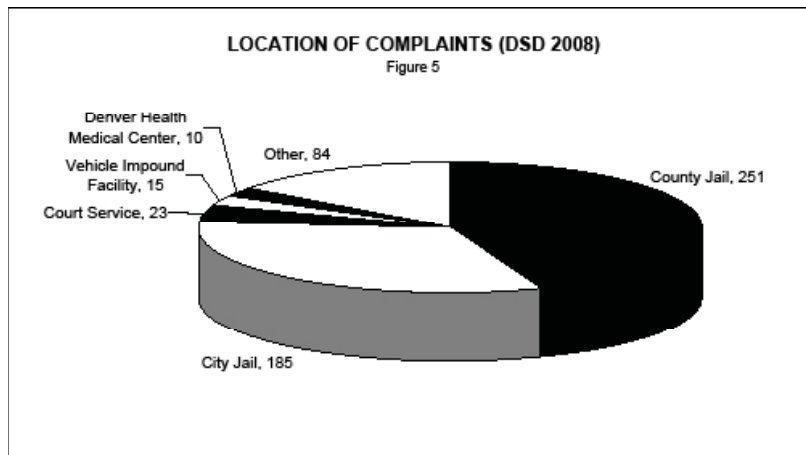
### DSD Monitoring

In 2008 the Denver Sheriff's Department received or initiated 570 complaints. This was a slight decrease of 2.5% from 2007. Nearly half of the complaints were internally-initiated by management while only 14% were externally-initiated by citizens.



The most common allegations received in 2008 involved improper procedure (44.7%) and improper conduct (19.8%).

The majority of complaints originated at the county jail (44%) followed by the city jail and court services.



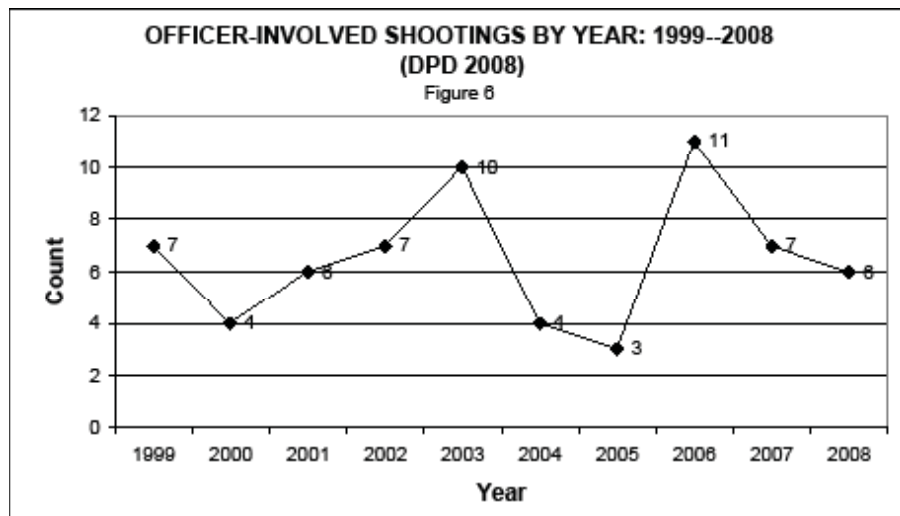
In 2008, Denver Sheriff's Deputies received 89 awards, down from 102 in 2007. The most common awards received were letters of appreciation (46.1%), community service award (32.6%), and supervisory commendation (30.3%).

Pre-disciplinary hearings were completed in an average of 155 days which was a significant improvement over 2007 at 166 days and 2006 at 198 days.

### ***Critical Incident Review***

The OIM rolled out to 11 incidents in 2008. Specifically, the Monitor's Office rolled out to six DPD officer-involved shootings and one DPD in-custody death in 2008. In addition, the OIM also rolled out to the County Jail for the three suicides and one medical death that occurred during the course of the year. All internal affairs investigations into these incidents were actively monitored by the OIM.

There were six officer-involved shooting incidents in 2008. The number of shootings continues a downward trend from 11 in 2006 and 7 in 2007.



### ***Special Initiatives And Policy Issues***

#### The Democratic National Convention

During the course of 2008, both the Denver Police and Sheriffs Departments were required to prepare for the largest law enforcement-related event in the history of the City & County of Denver, the Democratic National Convention (DNC). The Monitor's Office chose to treat the DNC as a "critical incident" warranting the active monitoring of police actions as they took place.

The OIM actively monitored all internal affairs cases that were initiated as a result of the DNC. Overall, there was only a small number of DNC-related complaints compared to the number of police contacts and the number of officers assigned to the event. Those cases wherein officers were "sustained" for failing to follow police policy or procedure were mostly minor in nature and none involved injuries to members of the community.

## ***Departing From The Truth***

In past Annual Reports, the Monitor has expressed concern regarding a history of the Police and Sheriff Departments' failure to terminate employees who had been "sustained" for lying during the course of Internal Affairs investigations. Since then, as of October 1, 2008, the Police Department has initiated a new "Disciplinary Matrix" which calls for presumptive termination for an officer who has intentionally and deliberately "departed from the truth" during the course of a judicial hearing or a criminal or administrative investigation. The Sheriff's Department is expected to adopt a similar disciplinary matrix next year.

## ***Community Concerns Regarding Biased Policing***

Over the last year, the OIM has become aware of community concerns regarding the "Broken Windows" approach to policing (saturating areas where patterns of crime are taking place with additional officers) and whether that practice has resulted in an increase in biased policing with a negative effect on communities of color.

In 2008, the Monitor worked with Internal Affairs command staff to ensure that biased policing complaints were being appropriately categorized so as to be better able to track patterns in such complaints, in general and as to specific officers.

The OIM is currently working with the Department to determine if it is possible for the "Personnel Assessment System" to identify, through data analysis, any problematic racially biased policing activities on the part of specific patrol officers.

The OIM is also evaluating whether customer satisfaction surveys should be conducted after traffic and pedestrian stops.

Finally, the Citizen Oversight Board has asked the Monitor's Office to research to what extent cameras can be placed in patrol cars (or on officers' persons). Audio and video evidence of police traffic stops and contacts could be used to prove or disprove allegations of misconduct. As per the COB's request, the Monitor's Office will be researching this issue in the upcoming year.

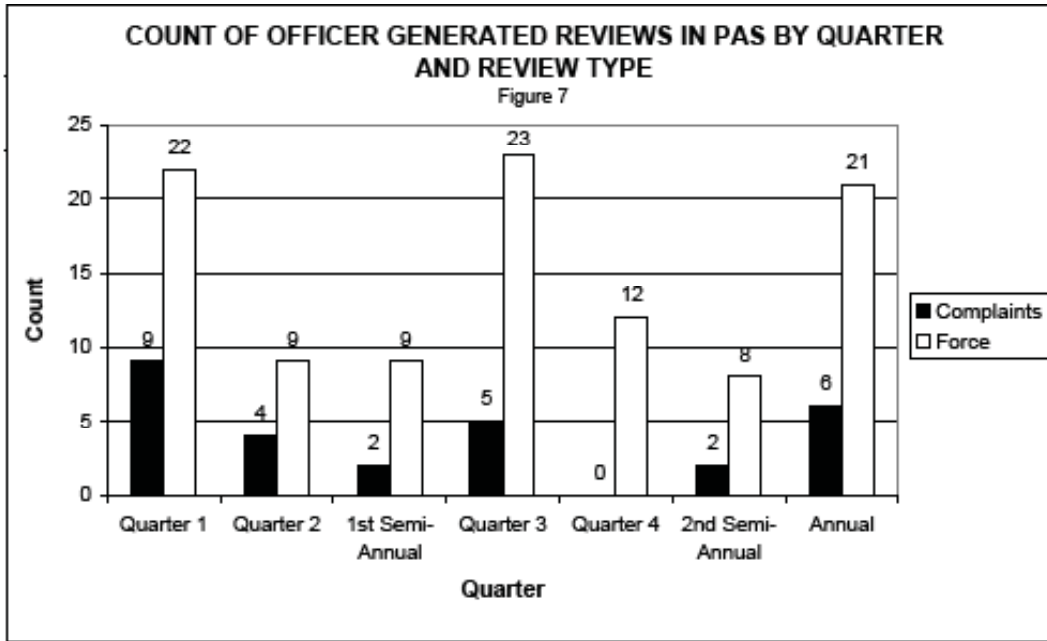
## ***Personnel Assessment System – PAS***

PAS is the police department's early identification and intervention system. The system is designed to manage officers' activities and provide intervention plans to assist officers that may be having work-related issues.

PAS includes a review process by the PAS board which consists of every rank from patrol officer through command staff as well a union representative and employee assistance professionals. The board's responsibility is to evaluate officer conduct and then report to command staff on any corrective actions that may need to be taken.

Since 2008, the OIM has been providing technical assistance to the staff of the Professional Standards Unit to assist in identifying officers needing further review.

An analysis of the PAS system in 2008 revealed that it was operating according to policy. Figure 7 shows the number of reviews generated by review type—force or complaints.



### *Police Department Smoking Policy*

In 2008 the OIM received a number of complaints from community members about DPD officers who were observed smoking cigarettes or cigars while on duty, directing traffic or otherwise being in public view, while in uniform and acting in an official capacity.

The Denver Police Department’s smoking policy only prohibits officers from smoking in city buildings and vehicles.

The OIM reviewed policies from eleven policing agencies in the Denver metro area, including, six local police departments and five local Sheriff Departments with patrol functions. The policy review revealed that all agencies with the exception of one have more restrictive policies regarding the use of tobacco on duty than the Denver Police Department.

The Monitor agrees that officers’ smoking on duty and while otherwise serving members of the public does not reflect well on the DPD as an organization and believes that the Denver Police Department should re-evaluate its policies regarding smoking while on-duty.



**DENVER**  
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# CHAPTER 1

## MISSION AND GOALS



## ***Overview from the Independent Monitor***

The mission of the Office of the Independent Monitor (OIM) is to monitor the Denver Police (DPD) and Sheriff (DSD) Departments, provide for fair and objective oversight of the uniformed personnel of these departments, and ensure public confidence in the ability of these departments to police themselves.

In 2004, the City of Denver created the OIM with an office staffed by six full-time professionals. After conducting a nation wide search for a Monitor and hiring staff, the OIM began monitoring Police and Sheriff internal investigations as of August 1, 2005. OIM staff includes three attorneys (the Independent Monitor, a Senior Deputy Monitor, and a Deputy Monitor), as well as a Community Relations Ombudsman, a Research Analyst, and an Office Manager.

The OIM is responsible for: (1) actively monitoring and participating in investigations of uniformed personnel in the City and County of Denver's Police and Sheriff Departments; (2) making recommendations to the Chief of Police, the Director of Corrections, and the Manager of Safety (who are responsible for discipline within the Police and Sheriff Departments) regarding administrative actions, including possible discipline; and (3) making recommendations regarding broader policy and training issues.

The jurisdiction of the OIM focuses on uniformed personnel: (1) against whom citizen complaints have been brought (Police and Sheriff); (2) who are charged with felonies or certain other serious misdemeanors (Police and Sheriff); (3) who are involved in duty-related incidents which result in serious bodily injury or death (Police, Sheriff, and Fire Department Arson Investigators); and (4) about whom either the Citizen Oversight Board or Manager of Safety have requested the Monitor's involvement (Police and Sheriff).

## ***Core Functions of the Monitor's Office***

The Monitor's Office "core functions" for 2008 included:

Monitoring and reviewing DPD and DSD critical incident investigations, specifically officer-involved shootings, in-custody deaths, and uses of force resulting in great bodily injury or death. This task includes the monitoring of Use-of-Force Review Board and Tactics Review Board deliberations and recommendations;

Monitoring the DPD and DSD internal affairs decision-making processes to ensure fairness and consistency in the assignment and handling of citizen and internally-initiated complaints and investigations;

Monitoring and making recommendations regarding formal DPD and DSD internal investigations to ensure that investigations are thorough, fair and complete;

Managing the citizen-police mediation program;

Monitoring and making recommendations on DPD and DSD findings after investigations and the imposition of discipline after sustained findings are made. (This task includes the monitoring of the deliberations and recommendations of Disciplinary Review Boards and Pre-disciplinary hearings);

Ensuring the citizen complaint process is accessible to the entire community and ensuring community members are aware of how their complaints were handled and why; and,

Monitoring the timeliness of the entire complaint handling and disciplinary processes for DPD and DSD.

## *Status of Goals for 2008*

At the beginning of 2008, the OIM set certain goals for the year. In general, the OIM was able to achieve or make significant progress towards the implementation of the aforementioned goals.

Goal: Follow up on the Police Assessment Resource Center (PARC) report to ensure recommendations regarding changes in DPD deadly force policies and critical incident investigations and administrative reviews are considered for implementation.

Status of Goal: The PARC report was published and made available to the public in June of 2008. The PARC report found that the Denver Police Department is currently a leader in the handling of deadly force incidents. The PARC report did, however, make 69 recommendations to further improve deadly force policies and investigations and reviews of critical incidents. The Chief of Police provided a comprehensive response to the report, agreeing in whole or in part, with 57 of PARC's 69 recommendations. The status of the Department's acceptance or rejection of these recommendations can be found on the OIM website at [www.denvergov.org/oim](http://www.denvergov.org/oim).

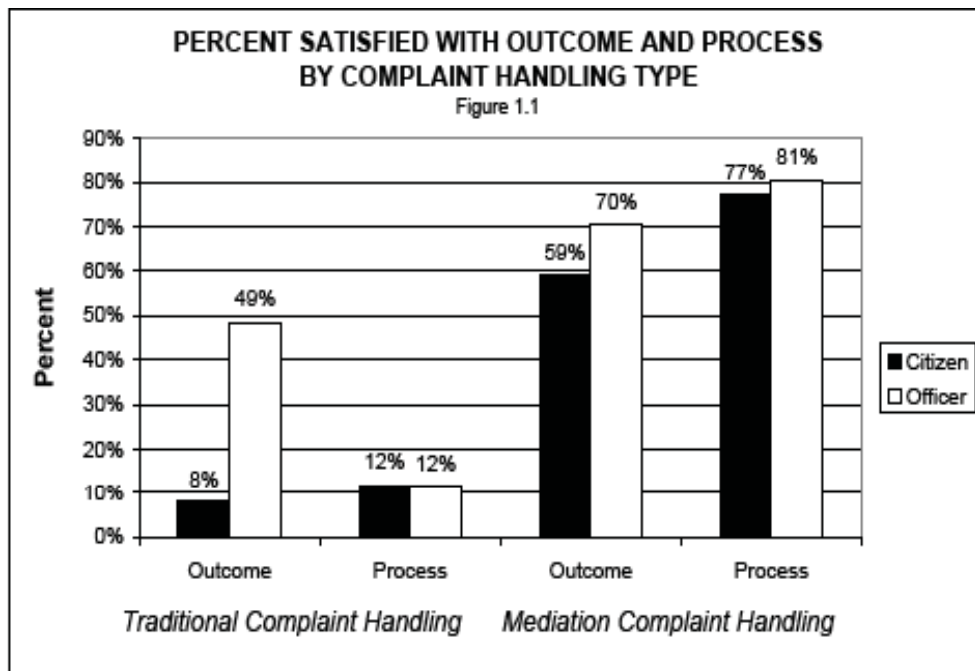
Goal: Continue the use of the OIM community-police mediation program, while maintaining the program as the largest of its kind in the country and assisting other police agencies in implementing similar programs.

Status of Goal: As of the end of 2008, the OIM Mediation program has facilitated more than 150 community member-police mediations since the mediation program's inception in December of 2005. (These numbers include both DPD and Denver Sheriff Department mediations and include some employee-on-employee complaints.) A total of fifty mediations were conducted during the 2008 calendar year. This program continues to be one of the largest in the United States as shown in Table 1.1.

TABLE 1.1 MEDIATION RATES PER OFFICER FOR SELECTED CITIES MEDIATING NINE OR MORE CASES IN 2008

Department	Agency	Number of Sworn Officers	Cases Mediated	Mediation Rate per 1,000 Officers
New York City Police Department	Civilian Complaint Review Board	36,000	112	3.1
San Francisco Police Department	Office of Citizen Complaints	2,408	71	29.5
Denver Police Department	Office of the Independent Monitor	1,539	43	27.9
Washington D.C. Metropolitan Police Department	Office of Police Complaints	4,014	30	9.0
Seattle Police Department	Office of Professional Accountability	1,333	22	16.5
Minneapolis Police Department	Civilian Police Review Authority	890	16	18.0
Portland Police Bureau	Independent Police Review Division	955	9	9.4
Denver Sheriff Department	Office of the Independent Monitor	787	7	8.9

Both complainant and officer satisfaction with the mediation process and subsequent outcomes remained high throughout the 2008 calendar year. Also, both complainant and officer satisfaction remain exceptionally higher than satisfaction with the traditional Internal Affairs processes and subsequent outcomes.



For more information on the mediation program, see the mediation tab located on the OIM website, [www.denvergov.org/oim](http://www.denvergov.org/oim). This portion of the OIM website includes mediation program protocols and guidelines as well as a link to an article in “Police Chief Magazine” about the OIM mediation program.

In addition, in 2008, the OIM facilitated the production of a mediation video for DPD roll call training entitled: “Lessons Learned from the Mediation Program.” It is hoped that this training video will pass along to officers valuable information learned by our professional mediators in order to reduce actions that can result in the filing of complaints and better inform officers about the mediation program and how to mediate successfully.

The OIM also assisted the City of Aurora, Colorado in the creation of a mediation program for that city’s police department and provided advice and consult to the Los Angeles Police Department, which is considering creating its own mediation program.

**Goal:** Evaluate the implementation of the DPD Personnel Assessment System (an early intervention tool which identifies patterns in officer conduct and assists in identifying performance concerns) as well as assisting the Sheriff Department in the implementation of its own system.

**Status of Goal:** The DPD finalized its new Personnel Assessment System (PAS) in early 2008. At the end of 2008, the OIM was given the opportunity to audit the new system. While the program appears to be working very well, the OIM has recommended that the Department move away from strict numerical triggers and use statistical analysis to allow for a more sophisticated comparison of similarly situated officers. (For more information on the PAS and the OIM’s audit results, see Chapter 5 “Special Initiatives & Policy Issues” chapter of this report.) In addition, the OIM is discussing with the DPD whether demographic data from traffic and pedestrian stops can be incorporated into the PAS in the future.

Work on the implementation of an “Early Intervention System” for the Sheriff Department will be postponed until after the Sheriff Department has initiated a new disciplinary process akin to the Police Department’s new Disciplinary Matrix. It is anticipated that an “Early Intervention System” will be part of the recommendations made by the Manager of Safety’s DSD Disciplinary Advisory Group that began its work in January of 2009.

Goal: Evaluate the new Disciplinary Matrix (created to make disciplinary decisions more objective and fair) and assist the DSD in the creation of a similar matrix.

Status of Goal: The DPD’s new Disciplinary matrix was implemented as of October 1, 2008. Consequently, it is too early to formally evaluate the policy. The Monitor, however, worked closely with the Department in the creation of the new policy and continues to believe that it is a best practice when compared to other disciplinary processes nation wide.

(For further information on the Disciplinary matrix see the Denver Police Department’s “Discipline Handbook: Conduct Principles and Disciplinary Guidelines,” located on the Manager of Safety’s website, at [www.denvergov.org/safety](http://www.denvergov.org/safety).)

The Monitor is currently participating in the new Disciplinary Advisory Group for the Sheriff Department. It is anticipated that the Sheriff Department will move to a disciplinary matrix in 2010.

Goal: Increase the timeliness of disciplinary review boards and Chief’s Hearings within the DPD.

Status of Goal: The DPD made substantial improvements in the timeliness of disciplinary review boards (DRB’s) and Chief’s Hearings during the 2008 calendar year. In all cases, DRB’s and Chief’s Hearings were conducted as soon as possible when individual cases were ready for review. (For more information, see the Timeliness Section of Chapter 2 “DPD Monitoring” of this report).

## ***2008 Outreach***

The OIM ensures that citizens can make police and sheriff complaints and commendations via mail, fax, the internet, or email directly to the OIM or the Citizen Oversight Board. Citizens can also make police complaints and commendations in person, by phone, or by mail directly to Internal Affairs, or the various Police Districts. The OIM brochure, with information about the OIM and the complaint process, is placed in many locations throughout the city and is available in both English and Spanish.

Locations where OIM complaint/commendation forms can be found are listed in Appendix A of this report, which can be found online at [www.denvergov.org/oim](http://www.denvergov.org/oim) [reports- annual reports - 2008 annual report appendix].

During the course of 2008, the OIM met with 45 community groups to discuss their issues and concerns regarding Denver law enforcement, as well as to describe the Monitor’s Office, its mission and its practices. The mediation program was highlighted during all such community meetings.

## ***Citizen Oversight Board***

The Citizen Oversight Board (COB) holds regularly scheduled meetings open to the public. Times and locations for quarterly public meetings scheduled to be conducted by the COB in 2009 can be found in Appendix B of this report, which can be found online at [www.denvergov.org/oim](http://www.denvergov.org/oim) [reports- annual reports - 2008 annual report appendix]. Times and/or locations are, of course, subject to change. (See COB website, [www.denvergov.org/cob](http://www.denvergov.org/cob) for up-to-date information.)

## ***National Consultation***

The Independent Monitor continues to assist other Departments, nationwide and internationally, in understanding the benefits and challenges of professional citizen oversight of law enforcement. Over the course of the year, the Monitor provided advice and consultation to the San Jose Police Department, and the Cities of New Orleans and New York. In addition, the Monitor provided training to federal prosecutors charged with oversight of the police in Brazil.

The Monitor was asked to provide training to internal affairs investigators from numerous jurisdictions on behalf of the Public Agency Training Council and he continues his work as a member of the Board of Directors of the National Association for the Civilian Oversight of Law Enforcement (NACOLE).

## ***The Complaint Handling Process***

A detailed explanation of the complaint handling and disciplinary processes for the Police and Sheriff Departments can be found in Appendix D of this report, which can be found online at [www.denvergov.org/oim](http://www.denvergov.org/oim) [reports- annual reports - 2008 annual report appendix].

## ***2009 Goals***

The OIM has set the following goals for the upcoming year:

Continue to follow-up on the Police Assessment Resource Center (PARC) report to ensure recommendations regarding changes in DPD deadly force policies and critical incident investigations and administrative reviews will be considered for implementation;

Continue the use of the OIM community-police mediation program, while maintaining the program as one of the largest of its kind in the country, and assist other police agencies in implementing similar programs;

Conduct annual evaluations of the DPD Personnel Assessment System and ensure an effective evaluation of officer comparisons and evaluate the possibility of incorporating demographic data from pedestrian and traffic stop for analysis into the system;

Assist the Denver Sheriff Department in the creation of a disciplinary matrix and an early intervention system;

Improve the timeliness of imposition of discipline for the DPD in all cases where a sustained finding is made; and,

Evaluate the DPD's policy, training and practices with respect to responding to "excited delirium" type cases, specifically those resulting in in-custody deaths. (See "Critical Incident Review," Chapter 4 for more information.)

## ***2009 Budget***

General budget information for 2008 can be found in Appendix C of this report, online at [www.denvergov.org/oim](http://www.denvergov.org/oim).

### ***A Note Regarding Statistics Published in this Report***

Statistics published in this report were obtained from the DPD and DSD Internal Affairs databases. Both agencies have processes in place which have led the OIM to conclude that these figures are generally accurate. The OIM has not audited the databases for accuracy, however. When data entry errors are discovered, the OIM notifies the appropriate department in order to ensure errors are corrected. Because most data is entered by DPD and DSD personnel and the OIM does not audit the data on a regular basis, the OIM cannot state with absolute certainty that all published statistics are 100% accurate.



**DENVER**  
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## CHAPTER 2

### DPD MONITORING



## Internal Affairs Complaints

In 2008, the Denver Police Department Internal Affairs Bureau handled 1,139 complaints of which 605 involved citizen complaints. The number of citizen complaints received in 2008 decreased by 6.1% from 2007.

Table 2.1 provides a breakdown of these complaints by complaint type and year.

**TABLE 2.1 TOTAL COMPLAINTS BY COMPLAINT TYPE AND YEAR (DPD 2008)**

COMPLAINT TYPE	YEAR		
	2008	2007	2008
Citizen	620	644	605
column %	57.5%	58.2%	53.1%
Internal	115	114	188
column %	10.7%	10.3%	16.3%
Obedience to Traffic Regulations	78	59	92
column %	7.1%	5.3%	8.1%
Traffic Accidents	150	152	149
column %	13.9%	13.7%	13.1%
Failure to Appear in Court	101	94	79
column %	9.4%	8.5%	6.9%
Failure to Attend Continuing Education	0	11	0
column %	0%	1%	0%
Failure to Qualify with Firearm	18	32	28
column %	1.5%	2.9%	2.5%
<b>TOTAL</b>	<b>1078</b>	<b>1106</b>	<b>1139</b>

### Complaint Assignments

Complaints are assigned by the Internal Affairs Bureau command staff as either “formals” (warranting a full formal investigation), “informals” (warranting further debriefing and/or counseling between the involved officer and his/her supervisor), “declines” (no further investigation warranted), or a “service complaint” (a complaint regarding a specific policy or procedure).

Table 2.2 shows that the most common assignment for citizen-initiated complaints was a decline representing 67.3% of the complaints. Mediations accounted for 14.5% of the declines (See Table 2.3).

The majority of internally-initiated complaints were categorized as formal complaints (90.3%).

**TABLE 2.2 TOTAL COMPLAINTS IN 2008 BY COMPLAINT TYPE AND CASE ASSIGNMENT (DPD 2008)**

COMPLAINT TYPE	CASE ASSIGNMENT					TOTAL
	Formal	Informal	Decline	Service Complaint	Unassigned	
Citizen	116	64	407	13	5	605
row %	19.2%	10.6%	67.3%	2.1%	0.8%	
Internal	168	9	8		1	188
row %	90.3%	4.8%	4.3%		0.5%	
Obedience to Traffic Regulations	89		2	1		92
row %	96.7%		2.2%	1.1%		
Failure to Appear in Court	79					79
row %	100%					
Traffic Accidents	149					149
row %	100%					
Failure to Qualify with Firearm	28					28
row %	100%					
Failure to Attend Continuing Education						0
row %						
<b>TOTAL</b>	<b>629</b>	<b>73</b>	<b>417</b>	<b>14</b>		<b>1139</b>

## Complaint Declinations

“No misconduct” was the most frequently cited reason for declining complaints, as shown in Table 2.3.

TABLE 2.3 NUMBER OF CITIZEN COMPLAINT DECLINES BY SOURCE AND REASON (DPD 2008)

REASON	SOURCE			TOTAL
	DPD	Monitor	Station	
Complainant Withdrew	37	1		38
% of total	9.1%	0.2%		
False/Trivial	8	1		9
% of total	2.0%	0.2%		
Judicial Remedy	52	4	1	57
% of total	12.7%	1.0%	0.2%	
Mediation	53	6		59
% of total	13.0%	1.5%		
No Jurisdiction	7			7
% of total	1.7%			
No Misconduct	188	8	2	198
% of total	45.8%	2.0%	0.5%	
Third Party	8			8
% of total	1.5%			
Repeatedly Reviewed	1	1		2
% of total	0.2%	0.2%		
Unable to ID Officer	17	1	1	19
% of total	4.2%	0.2%	0.2%	
Untimely	13	1	1	15
% of total	3.2%	0.2%	0.2%	
Complainant History				0
% of total				
<b>TOTAL</b>	<b>380</b>	<b>23</b>	<b>5</b>	<b>408</b>

## Criminal Case Filed against a Complainant

Although it is common for the Police Department to decline to take action on complaints after determining that further review is unwarranted, occasionally the Department’s investigation will conclude that a complainant has made an intentionally false and serious complaint against a DPD officer. In one particularly egregious case, a female arrestee complained that the arresting officers had forced her to perform oral sex on them after she was arrested. Due to the seriousness of her allegations, Internal Affairs investigators immediately responded to the jail to take the complainant’s statement. During the course of the investigation, the complainant admitted that the officers did not do anything wrong; she just didn’t think she should have been arrested.

The Internal Affairs investigators later sought and obtained a criminal filing against the complainant for the charge of false reporting to authorities, a class 3 misdemeanor.

## Complaint Allegations

Table 2.4, provides the most frequent complaint allegations received by DPD in 2008 compared with those received in 2006 and 2007. These allegations are only for citizen and internally-initiated complaints.

Overall, the number of allegations for citizen/internal complaints decreased from 1,239 in 2007 to 1,201—a decrease of 3.2%.

TABLE 2.4 COMPLAINT ALLEGATIONS BY YEAR FOR CITIZEN/INTERNAL CASES ONLY

ALLEGATION	YEAR		
	2006	2007	2008
Improper Procedure	288	274	225
column %	23.8%	22.1%	18.7%
Discourtesy	290	302	259
column %	23.9%	24.4%	21.6%
Unnecessary Force	206	235	222
column %	17.0%	19.0%	18.5%
Law Violations	57	40	66
column %	4.7%	3.2%	5.5%
Obedience to Traffic Regulations	76	59	93
column %	6.3%	4.8%	7.7%
Conduct Prejudicial	37	35	83
column %	3.1%	2.8%	6.9%
Other	257	294	253
column %	21.2%	23.7%	21.1%
<b>TOTAL</b>	<b>1211</b>	<b>1239</b>	<b>1201</b>

## Complaint Findings on Formal Cases

Table 2.5 provides the findings for formal cases closed in 2008. These cases include all complaint types: citizen, internal, failure to complete continuing education, failure to qualify with a firearm, failure to appear in court, and traffic accidents.

Cases including traffic accidents and failure to appear had the highest sustained rates among all complaint types. Citizen-initiated complaints were the least likely to be sustained—25.1% sustained rate. Internally-initiated complaints had a sustained rate of 65.9%.

TABLE 2.5 FINDINGS FOR FORMAL CASES BY CASE TYPE (DPD 2008)

FINDING	COMPLAINT TYPE					TOTAL
	Citizen	Internal	Traffic Accidents	Failure to Appear-Court	Failure to Qualify-Firearms	
Sustained column %	43 25.1%	149 65.9%	141 98.6%	71 83.5%	18 64.3%	422
Unfounded column %	21 12.3%	10 4.4%	1 0.7%	5 6%	5 18%	42
Exonerated column %	18 10.5%	30 13.3%		6 7.1%	5 17.9%	59
Not Sustained column %	87 50.9%	29 12.8%		3 3.5%		119
Not Reviewed column %	2 1.2%	8 3.5%	1 0.7%			11
<b>TOTAL</b>	<b>171</b>	<b>226</b>	<b>143</b>	<b>85</b>	<b>28</b>	<b>653</b>

## *Imposition Of Discipline*

### Definitions of Disciplinary Actions Taken by the Police Department

A *reprimand* can be either verbal or written. A reprimand is the lowest form of discipline. The Police Department maintains a record of oral and written reprimands on a permanent basis.

*Fined time* requires an officer to work on a day off for no additional compensation.

A *suspension* requires an officer to forfeit all police powers (including the ability to wear the police uniform) and suspends the officer's salary and credit towards retirement for a specified number of calendar days.

A *demotion* requires an officer to be reduced in civil service rank.

*Termination* removes an officer from the classified service.

### Discipline Statistics

Table 2.6 provides the discipline for sustained allegations in 2008 compared with 2006 and 2007.

The most frequent type of discipline imposed against Denver police officers in 2008 was an oral reprimand. The percentage of all cases that resulted in an oral reprimand remained stable from 2007 to 2008 at 60%.

A comparison of discipline by complaint type for sustained allegations is provided in Table 2.7. The most common form of discipline for citizen-initiated complaints was a written reprimand with 44.1% of the sustained allegations receiving this penalty. Oral reprimands were second at 29.4%.

Oral and written reprimands were the most common form of discipline for all case types with the exception of failure to qualify with a firearm, whereby 100% of the officers received fined time.

TABLE 2.6 DISCIPLINE FOR SUSTAINED CASES BY YEAR (DPD 2008)

DISCIPLINE	YEAR		
	2006	2007	2008
Termination column %	2 0.6%	1 0.2%	1 0.2%
Resigned/Retired--prior to discipline column %	6 1.7%	6 1.5%	7 1.7%
Suspension Without Pay column %	3 0.9%	18 4.4%	13 3.1%
Fined Time column %	28 8.1%	48 11.8%	49 11.8%
Written Reprimand column %	90 25.9%	87 21.3%	97 23.4%
Oral Reprimand column %	218 62.8%	245 60.0%	246 59.4%
SSR Entry--no discipline column %		3 0.7%	1 0.2%
<b>Total</b>	<b>347</b>	<b>408</b>	<b>414</b>

## *Cases Involving Dismissal, Resignation or Substantial Imposition of Discipline*

During the course of 2008, one officer was terminated by the Manager of Safety. Another seven officers resigned or retired while serious allegations against them were pending investigation or adjudication by the Department. Another four officers received suspensions of 10 calendar days or more.

TABLE 2.7 DISCIPLINE FOR SUSTAINED CASES BY COMPLAINT TYPE (DPD 2008)

DISCIPLINE	COMPLAINT TYPE						TOTAL
	Citizen	Internal	Traffic Accidents	Obedience to Traffic Regulations	Failure to Appear-Court	Failure to Qualify-Firearms	
Dismissed column %	1 2.9%						1
Resigned/Retired--prior to discipline column %	1 2.9%	6 9.5%					7
Suspension Without Pay column %	3 8.8%	8 12.7%	2 1.4%				13
Fined Time column %	4 11.8%	11 17.5%	14 9.9%	1	1 1.4%	18 100.0%	49
Written Reprimand column %	15 44.1%	23 36.5%	45 31.9%	6 6.9%	8 11.3%		97
Oral Reprimand column %	10 29.4%	14 22.2%	80 58.7%	80 92.0%	62 87.3%		248
SSR Entry--no discipline column %		1 1.6%					1
<b>TOTAL</b>	<b>34</b>	<b>63</b>	<b>141</b>	<b>87</b>	<b>71</b>	<b>18</b>	<b>414</b>

### Dismissal

An officer was terminated after having been sustained for having sexual relations while on duty with a woman he believed was a prostitute.

### Resignation/Retirement While an Allegation was Pending but prior to any Issuance of a Disciplinary Order

A Detective retired after allegedly altering a court summons on a domestic violence complaint in order to allow the defendant to appear in court on a specific date, instead of being arrested on the warrant. The officer was also alleged to have lied during the course of the investigation.

An officer resigned after having engaged in sexual relations with a prostitute while off duty.

An officer resigned after being accused of having sexual relations with a prostitute while on duty.

An officer resigned after having been criminally charged with felony domestic violence and menacing.

An officer resigned after having been convicted of misdemeanor menacing in a domestic violence related case.

An officer retired after having been charged with felony child abuse.

A Sergeant resigned after being involved in a DUI-related traffic collision while on suspension for drinking on duty.

Substantial Suspension (10 or more Calendar Days)

An officer received a 90-day suspension for feigning illness, falsely obtaining a bereavement leave day and lying to internal affairs. The officer accepted responsibility and agreed not to appeal the disciplinary decision.

An officer received a 64-day suspension (with 30 days held in abeyance) after being convicted of disturbing the peace for drinking to excess off-duty. The officer signed a stipulation agreeing to abstain from the use of alcohol for the next two years or face termination.

A Sergeant received a 60-day suspension for drinking and being intoxicated while on duty and in uniform in the District station. The officer signed a stipulation agreeing to abstain from the use alcohol for the next three years or face termination.

An officer received an 11-day suspension for engaging in unsafe tactics when making a traffic stop without adequate cause. The officer accepted responsibility for the violations and agreed not to appeal the discipline imposed.

Ranks of Officers Receiving Discipline in 2008

Table 2.8 provides results of discipline by rank for DPD officers imposed in 2008.

TABLE 2.8 DISCIPLINE BY RANK FOR SUSTAINED CASES (DPD 2008)

DISCIPLINE	RANK							TOTAL
	Officer	Corporal	Technician	Detective	Sergeant	Lieutenant	Captain and Above	
Dismissed column %		1 5.0%						1
Suspended Time column %	9 4.1%		1 3.4%	1 1.7%	2 5.3%			13
Fined Time column %	27 12.4%	2 10.0%	3 10.3%	8 13.8%	6 15.8%		3 33.3%	49
Written Reprimand column %	54 24.8%	5 25.0%	5 17.2%	18 31.0%	7 18.4%	3 18.8%	1 11.1%	93
Oral Reprimand column %	128 58.7%	12 60.0%	19 65.5%	31 53.4%	23 60.5%	13 81.3%	5 55.6%	231
SSR Entry column %			1 3.4%					1
<b>TOTAL</b>	<b>218</b>	<b>20</b>	<b>29</b>	<b>58</b>	<b>38</b>	<b>16</b>	<b>9</b>	<b>388</b>

## *Patterns*

### Complaints Per Officer

Table 2.9 shows the number of complaints received by DPD officers in 2008. This table includes all complaints whether generated by a citizen complaint or generated internally.

In 2008, 52% of DPD officers received zero complaints. Of the officers that received one or more complaints in 2008, 29.5% received only one complaint. Three percent of officers received four or more complaints in 2008.

Officers receiving more complaints than other similarly situated officers are identified for further review by the Department's early intervention system.

If appropriate and necessary, the officers will receive counseling, training or mentoring to ensure that they are not engaging in behavior that is contrary to Department standards and expectations.

### Force Complaints Per Officer

Table 2.10 shows the number of unnecessary force complaints filed against DPD officers in 2008 by how the complaint was initiated: citizen or internal.

There were 161 officers who received at least one unnecessary force complaint in 2008. Among these officers, the majority received only one citizen-initiated complaint (78.6%); 4.5% of the officers received three or more complaints.

Officers receiving more force complaints than other similarly situated officers are identified for further review by the Department's early intervention system.

If appropriate and necessary, the officers will receive counseling, training, or mentoring to ensure that they are not engaging in a pattern of unconstructive behavior.

TABLE 2.9 TOTAL NUMBER OF COMPLAINTS PER OFFICER (DPD 2008)

COMPLAINTS	Count	Percent
Zero	828	52.0%
One	470	29.5%
Two	174	10.9%
Three	64	4.0%
Four	32	2.0%
Five	15	0.9%
Six or More	8	0.5%
<b>TOTAL</b>	<b>1581</b>	<b>100%</b>

TABLE 2.10 NUMBER OF FORCE COMPLAINTS PER OFFICER (DPD 2008)

COMPLAINTS	CITIZEN-INITIATED		INTERNAL-INITIATED	
	Count	Percent	Count	Percent
One	121	78.6%	7	100%
Two	28	18.9%		
Three	6	3.9%		
Five	1	0.6%		
<b>TOTAL</b>	<b>154</b>	<b>100.0%</b>	<b>7</b>	<b>100%</b>

## Citizen Complaint Patterns

As required by ordinance, OIM reports on complaint patterns of DPD citizen complainants. The purpose of providing this information is to determine whether DPD Internal Affairs resources are monopolized by repeat complainants and to what extent these complaints result in the imposition of discipline.

Citizens who filed complaints against DPD in 2008 predominantly filed only one complaint (97.9%) while 14 complainants (2.1%) filed two complaints.

It should be noted that the DPD will often combine multiple complaints made by one individual under one case number. This is done for administrative expediency and to avoid an officer who has become the target of a repeat complainant from having his or her complaint history appear to be more significant than is warranted.

Demographic characteristics of complainants who filed complaints against DPD in 2008 are presented in Table 2.11. The percent column includes the missing values while the valid percent does not.

TABLE 2.11 COMPLAINANT CHARACTERISTICS (DPD 2008)

Gender	Count	Percent	Valid Percent
Male	401	59.9%	61.9%
Female	247	36.9%	38.1%
Missing	22	3.3%	
<b>Total</b>	<b>670</b>	<b>100%</b>	<b>100%</b>
Race	Count	Percent	Valid Percent
White	228	34.0%	40.9%
Black	118	17.6%	21.2%
Hispanic	107	16.0%	19.2%
Asian/Pacific Islander	8	1.2%	1.4%
American Indian	3	0.4%	0.5%
Unknown	93	13.9%	16.7%
Missing	113	16.9%	
<b>Total</b>	<b>670</b>	<b>100%</b>	
Age	Count	Percent	Valid Percent
18 or Younger	25	3.7%	4.5%
19 - 24	91	13.6%	16.4%
25 - 30	105	15.7%	18.9%
31 - 40	149	22.2%	28.8%
41 - 50	103	15.4%	18.5%
Over 50	83	12.4%	14.9%
Missing	114	17.0%	
<b>Total</b>	<b>670</b>	<b>100%</b>	

Table 2.12 illustrates the number, percent, and rate of citizen-initiated complaints by district.

Police District Six accounted for 38.3% of the total citizen-initiated complaints which translates into a complaint rate of 4.04 per 1,000 residents. The lowest complaint rate 0.43% was found in District Three. District Five accounted for the fewest number of complaints with 42 or 7% of the total; however, because of the District's comparatively low population, the District had the second highest rate at 1.10 per 1,000 residents.

It should be noted that District Six would be expected to have the highest rate of complaints given that it includes a high concentration of restaurant/bars (LoDo) as well as several sporting arenas.

The airport (DIA) had 23 complaints which represented 3.8% of the total number of citizen-initiated complaints. There is no complaint rate for DIA since there is no defined population count.

TABLE 2.12 CITIZEN-INITIATED COMPLAINTS BY DISTRICT (DPD 2008)

DISTRICT	Count	Percent	District Population	Complaint Rate per 1,000
1 - NorthWest	64	10.8%	89,802	0.71
2 - NorthCentral	59	9.8%	63,006	0.94
3 - SouthEast	75	12.4%	174,309	0.43
4 - SouthWest	89	11.4%	138,933	0.50
5 - NorthEast	42	7.0%	38,207	1.10
6 - Downtown	231	38.3%	57,112	4.04
DIA-Airport	23	3.8%		
Unknown	40	6.8%		
<b>TOTAL</b>	<b>603</b>	<b>100%</b>		

## Commendations & Awards

In the interest of providing a more balanced view of the Denver Police Department's service to the community, the OIM reports on commendations and awards received by DPD Officers for exceptional services provided to the community and the Department. There were 683 commendations and awards received by DPD employees in 2008. (Detailed descriptions of awards granted by the DPD during the course of 2008 can be found in Appendix G of this report at [www.denvergov.org/oim](http://www.denvergov.org/oim) [reports- annual reports - 2008 annual report appendix].

Table 2.13 shows the number of commendations and awards received by DPD employees in 2008 compared to 2006 and 2007.

Official Commendations were the most frequent type of commendation received accounting for 24.6% of the total. Other frequent commendations included Commendatory Action Reports (23.1%) and Letters of Appreciation (14.3%).

A Commendatory Action Report is a form that documents positive interactions that occur between citizens and officers. These come primarily through the "positive comment-complaint hotline."

Table 2.14 provides definitions for the different types of commendations and awards currently used by the Denver Police Department.

TABLE 2.13 COMMENDATIONS RECEIVED BY DPD EMPLOYEES BY YEAR (DPD 2008)

COMMENDATION	YEAR		
	2006	2007	2008
Commendatory Action Report column %	180 31.5%	174 32.3%	158 23.1%
Official Commendation column %	131 22.9%	79 14.7%	168 24.6%
Commendatory Letter column %	82 14.3%	71 13.2%	67 9.8%
Letter of Appreciation column %	60 10.5%	88 16.4%	98 14.3%
STAR Award column %	34 5.9%	35 6.5%	18 2.6%
Merit Award column %	17 3.0%	15 2.8%	51 7.5%
Life Saving Award column %	17 3.0%	10 1.9%	23 3.4%
Citizens Appreciate Police column %	12 2.1%	2 0.4%	9 1.3%
Community Service Award column %	9 1.6%	3 0.6%	4 0.6%
Officer of the Month column %	3 0.5%	4 0.7%	6 0.9%
Distinguished Service Cross column %	11 1.9%	2 0.4%	11 1.6%
Medal of Honor column %			2 0.3%
Medal of Valor column %		2 0.4%	1 0.1%
Unit Commendation column %	1 0.2%	53 9.9%	61 8.9%
Purple Heart column %	3 0.5%		1 0.1%
Other than DPD column %	10 1.7%		3 0.4%
Unknown column %	2 0.3%	2	2 0.3%
<b>TOTAL</b>	<b>572</b>	<b>538</b>	<b>683</b>

TABLE 2.14 DPD COMMENDATION TYPES AND DEFINITIONS

Commendatory Action Report	A form documenting positive comments from citizens that come through the comment hotline.
Commendatory Letter	Awarded to employees who, through alertness and attention to duty, perform their assigned functions in a commendable manner.
Community Service Award	Awarded to employees who, by virtue of sacrifice and expense of his/her time, fosters or contributes to a valuable and successful program in the area of community affairs, or who acts to substantially improve police/community relations through contribution of time and effort when not involved in an official police capacity.
Distinguished Service Cross	Awarded to employees who are cited for gallantry not warranting a Medal of Honor or a Medal of Valor.
Letter of Appreciation	A letter expressing appreciation for services provided by employees.
Life Saving Award	Awarded to employees who, through exceptional knowledge and behavior, perform a physical act which saves the life of another person and there is no danger to the officer's life.
Medal of Honor	Awarded to employees who distinguish themselves conspicuously by gallantry and intrepidity at the risk of their lives above and beyond the call of duty.
Medal of Valor	Awarded to employees who distinguish themselves by extraordinary heroism not justifying the award of the Medal of Honor.
Merit Award	Awarded to employees who distinguish themselves by exceptional meritorious service who: through personal initiative, tenacity and great effort acts to solve a major crime or series of crimes, or through personal initiative and ingenuity, develops a program or plan which contributes significantly to the Department's objectives and goals.
Officer of the Month	Awarded to employees who represent the department in all facets of law enforcement with a commitment to excellence, in support of the values of the organization, and a desire to represent the department in the manner in which they were sworn.
Official Commendation	Awarded employees, who by exemplary conduct and demeanor, perform their assigned functions in an unusually effective manner.
Purple Heart	Awarded to employees who are killed, seriously wounded or seriously injured in the performance of an official action.
STAR award	Awarded to employees who, through exceptional tactics, act to successfully resolve a critical incident, thereby setting a standard for safety and professionalism to which all officers should aspire.
Unit Commendation	Awarded to an entire unit whose members perform their assigned function in an unusually effective manner.

## Timeliness

A critical priority in dealing with police complaints is the need to resolve these complaints in a timely manner. Providing recommendations on how to improve the timeliness of complaint handling has been a priority for the Office of the Independent Monitor (OIM) since its inception.

For information on timeliness goals established by the Monitor for DPD handling of complaints and the status of the Department's achievement of such goals, see Appendix E, which can be found online at [www.denvergov.org/oim](http://www.denvergov.org/oim) [reports - annual reports – 2008 Appendix].

Table 2.15 compares case timeliness (number of days from receiving the complaint to closing the complaint) by the complaint type. The cases included in this table are those that were received after August 1, 2005 and closed between January 1, 2008 and December 31, 2008. Additionally, citizen-initiated complaints did not include those cases that were referred for mediation.

On average, citizen-initiated complaints were closed within 58 days compared to 70 days for internally-initiated complaints.

**TABLE 2.15 NUMBER OF DAYS TO CLOSE COMPLAINT  
CASE BY COMPLAINT TYPE (DPD 2008)**

COMPLAINT TYPE	Mean	Median	TOTAL
Citizen	57.8	39	611
Internal	69.9	27	183
Traffic Accidents	17.4	13.0	143
Failure to Appear-Court	25.1	25.0	85
Failure to Qualify-Firearms	41.9	50	28
<b>TOTAL AVERAGE</b>	<b>42.4</b>	<b>30.8</b>	<b>1050</b>

Table 2.16 provides a description of the types of complaints received and the case status of those complaints by year's end.

This analysis includes those cases that were opened between January 1, 2008 through December 31, 2008. Additionally, citizen-initiated complaints included those cases referred to mediation.

**TABLE 2.16 END OF YEAR CASE STATUS BY COMPLAINT TYPE (DPD 2008)**

COMPLAINT TYPE	CASE STATUS			TOTAL
	Closed	Open - Assigned	Pending Mediation	
Citizen	507	89	9	605
row %	83.8%	14.7%	1.5%	
Internal	147	39		186
row %	79.0%	21.0%		
Traffic Accidents	139	10		149
row %	93.3%	6.7%		
Failure to Appear-Court	75	4		79
row %	94.9%	5.1%		
Failure to Qualify-Firearms	27	1		28
row %	96.4%			
<b>TOTAL</b>	<b>895</b>	<b>143</b>	<b>9</b>	<b>1047</b>

## Timeliness Issues Regarding IAB Investigations and Findings

Comparing citizen-initiated complaints to internal complaints, shows citizen complaints with a higher closure rate at 83.8% compared to 79% for internally-initiated complaints.

Unless there are exceptional circumstances, such as a pending criminal investigation or prosecution, the OIM believes that no administrative case should take longer than one year before discipline, if needed, is imposed. A goal of the OIM program has been to provide recommendations to shorten the duration for all cases except the most complex and serious and those which involve exceptional circumstances.

In order to achieve this goal, the staffing at the Internal Affairs Bureau needs to be adequate. The Monitor's Office is concerned that since April 2008, the staffing in DPD's Internal Affairs Bureau has been reduced from ten Sergeant-investigators to nine. As a result, IAB staff had a greater strain on its resources in 2008 than in preceding years, which may have made it more difficult to complete its investigations in a timely fashion.

There were four police internal affairs cases still open that were over one year old as of December 31, 2008:

Case #1: Opened September 2007. Case alleges domestic violence and departing from the truth. The investigation was not completed until September 2008. The investigation was delayed by court proceedings relating to a request for a restraining order. Due to the lengthy nature of the investigation and documentation, command review was not completed until November 2008. As of the writing of this report, the case was still pending, but near completion.

Case #2: Opened October 2007. Case alleges off-duty domestic violence. The investigation was not completed until November 2008. The investigation was delayed by a criminal case prosecution which was not resolved until July 2008. Command review was completed in December 2008. As of the writing of this report, the case was still pending, but near completion.

Case #3: Opened October 2007. Case involves a fatal traffic collision where the officer was alleged to have been at fault. The investigation was not completed until November 2008. The investigation was delayed by a criminal prosecution which was not resolved until September 2008. Command review was completed in December 2008. As of the writing of this report, the case was still pending, but near completion.

Case #4: Opened September 2007. Case involves a serious injury traffic collision where the officer was alleged to have been at fault. The investigation was completed shortly before the writing of this report and is currently pending command review. The investigation was delayed by a criminal prosecution, which was not resolved until June 2008, and by repeated attempts to obtain the transcripts of the proceedings. Even considering the legitimate reasons for much of the delay in the handling of this case, the Monitor's Office believes that the case investigation was not handled in a timely manner and is concerned that staffing issues may have been a factor in causing that result.

## Timeliness Issues Regarding Command Review of Complaints

In last year's annual report, the Monitor identified specific timeliness problems as they related to:

1. Police Department "command reviews" - the period necessary for a DPD commander and Division Chief to review a formal internal affairs investigation and make recommendations as to whether an officer violated Department rules and, if so, the appropriate level of discipline;
2. Disciplinary Review Boards - consisting of civilians and officers who make recommendations regarding discipline to the Chief of Police for serious cases and upon request of an officer who has been notified that a Division Chief has recommended more than a reprimand; and,
3. Chief's Hearings - conducted by the Chief of Police, hearing from the affected officer before making a recommendation to the Manager of Safety.

The Monitor is pleased to report that, due to the leadership of the Deputy Chief of Administration, the timeliness of Disciplinary Review Boards (DRBs) and Chief's Hearings have improved dramatically. The amount of time it took for command reviews improved in 2008 (from an average of 40 days in 2007 to an average of 35.5 days in 2008). In addition, the Monitor has noted that the Division Chief of Patrol, who is responsible for most command reviews, has been taking an aggressive approach in responding to overdue command reviews. The Division Chief's work in this regard has been assisted in part, due to a new weekly report developed by Internal Affairs and the Monitor's Office that allows for better monitoring of the status of these reviews. As such, the Monitor is very hopeful that DPD will see continued improvement in this area over the course of 2009.

The average number of days to impose discipline in cases where DRB's were conducted in 2007 (19 cases in total) was 314 days (from the date the complaint was opened until the date the case was closed). In 2008, there were 12 cases in which DRBs were conducted. The average number of days it took to impose discipline in those cases in 2008 was 268 days, a substantial improvement over the prior year.





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## CHAPTER 3

### DSD MONITORING



## Complaints

In 2008, the Denver Sheriff Department received 570 complaints compared to 584 in 2007. This represents a decrease of 2.5% in the total number of complaints from 2007 to 2008.

As shown in Table 3.1, 32.6% of the total complaints received in 2008 were filed by inmates, while management accounted for 47.4%, community members—14.2%, and employees—2.8%.

The increase in the number of complaints over the last three years can be mostly attributed to a change in the Department’s documentation of reprimands. In the past, verbal and written reprimands were issued to employees but not forwarded to Internal Affairs.

As such, there was no convenient means by which a supervisor could track reprimands on a department-wide basis and it was difficult to ensure consistency throughout the department as to how and when reprimands were issued.

In 2007, the Department began requiring supervisors to forward all reprimands to Internal Affairs for review and documentation. This was an improvement over the prior process but can lead to the impression that complaints increased as a result.

TABLE 3.1 TOTAL COMPLAINTS BY COMPLAINT SOURCE AND YEAR (DSD 2008)

COMPLAINT SOURCE	YEAR		
	2006	2007	2008
Citizen	73	77	81
column %	18.8%	13.2%	14.2%
Employee	26	16	16
column %	6.7%	2.7%	2.8%
Inmate	163	216	186
column %	42.0%	37.0%	32.6%
Management	35	236	270
column %	9.0%	40.4%	47.4%
Other	6		2
column %	1.5%		0.4%
Unknown	85	39	15
column %	21.8%	6.7%	2.6%
<b>TOTAL</b>	<b>388</b>	<b>584</b>	<b>570</b>

TABLE 3.2 COMPLAINT ALLEGATIONS BY YEAR (DSD 2008)

COMPLAINT TYPE	YEAR		
	2006	2007	2008
Improper Conduct	263	265	128
column %	52.5%	41.0%	19.8%
Lost Property	89	94	104
column %	17.8%	14.6%	16.1%
Improper Procedure	31	113	289
column %	6.2%	17.5%	44.7%
Excessive Force	9	26	28
column %	1.8%	4.0%	4.3%
Law Violation	27	10	13
column %	5.4%	1.5%	2.0%
Other	8	30	13
column %	1.6%	4.6%	2.0%
Service Complaint	74	108	72
column %	14.8%	16.7%	11.1%
<b>TOTAL</b>	<b>501</b>	<b>648</b>	<b>647</b>

Table 3.2 shows the complaint allegations by year.

In 2008, improper procedure allegations accounted for 44.7% of the total allegations received. The next most common allegation was “improper conduct,” accounting for 19.8% of the allegations.

## Findings

In 2008, the Denver Sheriff's Department closed 543 complaint cases involving 598 allegations. This includes all cases received after August 1, 2005 and closed during 2008.

Table 3.3 provides the results of the findings for all DSD complaint cases closed in 2008. Approximately 34.3% of the allegations resulted in a sustained finding in 2008.

TABLE 3.3 FINDINGS FOR CLOSED COMPLAINT CASES (DSD 2008)

FINDING	Count	Percent
Sustained	205	34.3%
Not Sustained	100	16.7%
Resolved	91	15.2%
Unfounded	85	14.2%
Declined	57	9.5%
Exonerated	39	6.5%
Referred	13	2.2%
Mediation	7	1.2%
Informal	1	0.2%
<b>TOTAL</b>	<b>598</b>	<b>100%</b>

Table 3.4 provides the findings for complaint cases closed in 2008 by the complaint source. Management-initiated complaints were the most likely to be sustained (61%) while inmate-initiated complaints were the least likely to result in a sustained finding (7.5%).

The most common finding for citizen-initiated complaints was unfounded (23.2%). Inmate-initiated complaints were most likely to be not sustained (27.4%).

TABLE 3.4 FINDINGS FOR COMPLAINT CASES CLOSED IN 2008 BY COMPLAINT SOURCE (DSD 2008)

FINDING	COMPLAINT SOURCE					TOTAL
	Citizen	Employee	Inmate	Management	Unknown	
Sustained	11	4	15	172	3	205
column %	13.4%	20.0%	7.5%	61.0%	23.1%	
Unfounded	19		54	12		85
column %	23.2%		26.8%	4.3%		
Exonerated	9	3	17	9	1	39
column %	11.0%	15.0%	8.5%	3.2%	7.7%	
Not Sustained	14	6	55	24	1	100
column %	17.1%	30.0%	27.4%	8.5%	7.7%	
Resolved	15	3	25	45	3	91
column %	18.3%	15.0%	12.4%	16.0%	23.1%	
Referred		1	4	8		13
column %		5.0%	2.0%	2.8%		
Declined	12	1	31	11	2	57
column %	14.6%	5.0%	15.4%	3.9%	15.4%	
Informal	1					1
column %	1.2%					
Mediation	1	2		1	3	7
column %	1.2%	10.0%		0.4%	23.1%	
<b>TOTAL</b>	<b>82</b>	<b>20</b>	<b>201</b>	<b>282</b>	<b>13</b>	<b>598</b>

## Imposition Of Discipline

### Definitions of Disciplinary Actions Taken by the Sheriff Department

A *reprimand* can be either verbal or written. A reprimand is the lowest form of discipline. The Sheriff Department maintains a record of oral reprimands for one year and a record of written reprimands for three years.

A *suspension* requires a deputy to forfeit all police powers and the deputy's salary and credit towards retirement for a specified number of days.

A *demotion* requires a deputy to be reduced in rank.

*Termination* removes a deputy from employment by the Sheriff Department.

Unlike the Denver Police Department, there is currently no "fined time" (see Chapter 2 "Definitions of Disciplinary Actions Taken by the Police Department") used by the Sheriff Department. The Monitor hopes that the "fined time" option will be added to possible disciplinary actions after the Manager of Safety's Disciplinary Advisory Group completes its review of Sheriff disciplinary processes.

TABLE 3.5 DISCIPLINE FOR SUSTAINED CASES BY YEAR (DSD 2008)

DISCIPLINE	YEAR		
	2006	2007	2008
Termination column %	2 2.1%		8 4.0%
Resignation—prior to discipline column %	3 3.1%	3 1.6%	1 0.5%
Demotion column %	1 1.0%		
Suspension column %	20 20.8%	19 10.3%	28 14.1%
Written Reprimand column %	15 15.6%	46 24.9%	48 24.2%
Verbal Reprimand column %	22 22.9%	104 56.2%	81 40.9%
Cautionary Letter—no discipline column %	11 11.5%	5 2.7%	3 1.5%
Counseled—no discipline column %	6 6.3%	5 2.7%	9 4.5%
Disqualification—no discipline column %		3 1.6%	3 1.5%
Unknown Officer column %	16 16.7%		17 8.6%
<b>TOTAL</b>	<b>96</b>	<b>185</b>	<b>198</b>

Table 3.5 shows the discipline for sustained cases in 2008 compared to 2006 and 2007.

The most common forms of discipline in 2008 consisted of verbal (40.9%) and written reprimands (24.2%).

### *Cases Involving Termination, Resignation or Substantial Imposition of Discipline*

Eight deputies were terminated in 2008 for various acts of misconduct. An additional eight deputies received suspensions of 10 working days or more. One deputy resigned while an internal affairs investigation was pending.

#### Terminations

A deputy was terminated for failing to conduct adequate rounds and, therefore, failed to discover a suicide in a timely fashion. The deputy had a prior history of discipline for “departing from the truth.”

A deputy was terminated after being arrested for soliciting an undercover officer for prostitution.

A deputy was terminated based on multiple cases involving unnecessary force on an inmate, lying to internal affairs, inappropriate language towards inmates and disobeying orders.

A deputy was terminated for violating a stipulation reached in a prior internal affairs case requiring him to abstain from the use of alcohol.

#### Resignation After Internal Investigation Commenced but Prior to the Issuance of any Disciplinary Order

A deputy resigned after being charged with felony menacing in an off-duty domestic violence related incident.

#### Probationary Terminations

A probationary employee was terminated for refusing to work with a deputy who he believed provided testimony against him to internal affairs.

A probationary employee was terminated for lying to internal affairs about an active warrant.

A probationary employee was terminated for failing to conduct rounds and abandoning his post.

A probationary employee was terminated for violating the sick leave policy and for unauthorized absences.

Substantial Suspension (10 or more Working Days)

A deputy was suspended for 60 days for harassing inmates while conducting searches.

A deputy was suspended for 45 days for sleeping on duty and lying to internal affairs.

A deputy was suspended for 32 working days for drinking to excess, failing to report for work and lying to internal affairs.

A deputy was suspended for 27 working days for horseplay with a taser and lying to internal affairs.

A deputy was suspended for 15 working days for sick leave abuse after having served a prior suspension for a similar violation.

A deputy was suspended for 10 working days for failing to monitor a section of the jail as required.

A deputy was suspended for 10 working days after being convicted of Driving under the Influence (off duty) with a blood alcohol level three times that of the legal limit.

A deputy was suspended for 10 working days for being rude and disrespectful to a cadet on numerous occasions.

***Ranks of Officers Receiving Discipline in 2008***

Table 3.6 provides results of this analysis for the Sheriff Department.

These include all cases received on or after August 1, 2005 and closed in 2008 with sustained findings.

TABLE 3.6 DISCIPLINE BY RANK FOR SUSTAINED CASES (DSD 2008)

DISCIPLINE	DEPARTMENT RANK			TOTAL
	Deputy Sheriff	Sheriff Sergeant	Captain or Above	
Termination column %	8 4.6%			8
Suspension column %	22 12.6%	2 25.0%	2 50.0%	26
Written Reprimand column %	43 24.7%	4 50.0%		47
Verbal Reprimand column %	79 45.4%	2 25.0%		81
Cautionary Letter column %	3 1.7%			3
Counseled column %	6 3.4%		2 50.0%	8
Unknown Officer column %	13 7.5%			13
<b>TOTAL</b>	<b>174</b>	<b>8</b>	<b>4</b>	<b>186</b>

## Patterns

TABLE 3.7 NUMBER OF COMPLAINTS PER OFFICER (DSD 2008)

COMPLAINTS	Count	Percent
Zero	429	62.5%
One	182	26.5%
Two	51	7.4%
Three	17	2.5%
Four	5	0.7%
Five or More	2	0.3%
<b>TOTAL</b>	<b>688</b>	<b>100.0%</b>

## Complaints Per Officer

In 2008, 257 Deputy Sheriffs received at least one complaint.

Table 3.7 shows that 26.5% of those deputies received only one complaint while 62.5% received zero complaints. Approximately 4% of deputies received three or more complaints.

## Force Complaints Per Officer

Only two deputies received two excessive force complaints in 2008 while 19 deputies received one excessive force complaint.

## Citizen Complaint Patterns

As required by ordinance, OIM reports on complaint patterns of DSD citizen complainants. The purpose of providing this information is to determine whether DSD Internal Affairs resources are monopolized by repeat complainants and to what extent these complaints result in the imposition of discipline.

These results include complaints from employees, inmates, and citizens. Complaints filed by management are excluded from this analysis.

Ninety-five percent of those who filed a complaint against DSD officers filed only one complaint during the course of 2008. Approximately 4.8% filed two or more complaints. No complainant filed more than three complaints during the 2008 calendar year.

Demographic characteristics of complainants who filed complaints against DSD in 2008 are presented in Table 3.8. The percent column includes the missing values while the valid percent does not.

TABLE 3.8 COMPLAINANT CHARACTERISTICS (DSD 2008)

Gender	Count	Percent	Valid Percent
Male	185	64.7%	65.4%
Female	98	34.3%	34.6%
No Information	3	1.0%	
<b>Total</b>	<b>286</b>	<b>100%</b>	<b>100%</b>
Race	Count	Percent	Valid Percent
White	107	37.4%	39.1%
Black	99	34.6%	36.1%
Hispanic	63	22.0%	23.0%
American Indian	2	0.7%	0.7%
Asian/Pacific Islander	3	1.0%	1.1%
No Information	12	4.2%	
<b>Total</b>	<b>286</b>	<b>100%</b>	<b>100%</b>
Age	Count	Percent	Valid Percent
18 - 24	45	15.7%	17.6%
25 - 30	27	9.4%	10.6%
31 - 40	68	23.1%	25.9%
41 - 50	75	26.2%	29.4%
Over 50	42	14.7%	16.5%
No Information	31	10.8%	
<b>Total</b>	<b>286</b>	<b>100%</b>	<b>100%</b>

Table 3.9 shows that 44% of the complaints against DSD occurred at the Denver County Jail while 32.5% occurred at the Denver City Jail (also known as PADF – the Pre-Arrest Detention Facility). Very few complaints (n = 2) were filed at the training facility.

**TABLE 3.9 LOCATION OF COMPLAINT (DSD 2008)**

LOCATION	Count	Percent
County Jail	251	44.0%
City Jail	185	32.5%
Court Service	23	4.0%
Vehicle Impound Facility	15	2.6%
Denver Health Medical Center	10	1.8%
Training	2	0.4%
Other	84	14.7%
<b>TOTAL</b>	<b>570</b>	<b>100%</b>

### Commendations & Awards

In the interest of providing a more balanced view of the Denver Sheriff Department’s service to the community, the OIM reports about commendations and awards received by DSD Deputies for exceptional services provided to the community and the department.

**TABLE 3.10 COMMENDATIONS RECEIVED BY DSD EMPLOYEES BY YEAR (DSD 2008)**

COMMENDATION	YEAR		
	2006	2007	2008
Supervisory Commendation column %	25 23.1%	8 5.9%	27 30.3%
Commendation from Director column %	20 18.5%	38 35.3%	4 4.5%
Letters of Appreciation column %			41 46.1%
Community Service Award column %	15 13.9%	22 21.8%	29 32.6%
Outstanding Service column %	10 9.3%	1 1.0%	
Outstanding Performance column %	5 4.6%	8 7.8%	
Employee of Quarter column %	4 3.7%	4 3.9%	12 13.5%
#1 Academic Award column %	3 2.8%	3 2.9%	2 2.2%
#1 Defensive Tactic Award column %	3 2.8%	3 2.9%	2 2.2%
#1 Physical Fitness Award column %	3 2.8%	3 2.9%	2 2.2%
Most Improved Physical Fitness Award column %	3 2.8%	3 2.9%	2 2.2%
Top Gun Award column %	3 2.8%	3 2.9%	2 2.2%
Valedictorian column %	3 2.8%	3 2.9%	2 2.2%
Academy Medal column %	3 2.8%		2 2.2%
Merit Award column %	2 1.9%	5 4.9%	2 2.2%
Life Saving Award column %	5 4.6%	1 1.0%	
Medal of Valor column %	1 0.9%	1 1.0%	1 1.1%
<b>TOTAL</b>	<b>108</b>	<b>102</b>	<b>89</b>

The Sheriff Department presented 89 commendations and awards to DSD employees in 2008. A detailed description of awards granted by the DSD during the course of 2008 is located in Appendix H of this report, at [www.denvergov.org/oim](http://www.denvergov.org/oim) [reports- annual reports - 2008 annual report appendix].

As indicated in Table 3.10 the most frequent awards occurred for letters of appreciation (46.1%) followed by community service awards (32.6%).

There were no letters of appreciation awards for 2006 or 2007 as this is a new category for 2008.

Definitions for some of the Departmental awards are provided in Table 3.11.

**TABLE 3.11 DSD COMMENDATION TYPES AND DEFINITIONS**

Community Service Award	Awarded to an employee who sacrifices his/her time and expense, contributes a successful program to the community, or who performs an act to improve Sheriff-Community relations.
Merit Award	Awarded to an employee who, through personal initiative develops a program or plan which contributes significantly to the Department's objectives, goals, and morale.
Purple Heart	Awarded to an employee who is killed or seriously injured in the performance of his/her official duties.
Commendation	Awarded to an employee for specific actions or the performance of duties/services.
Supervisory Commendation	Awarded to an employee by a supervisor for specific actions or the performance of duties/services.
Life Saving Award	Awarded to an employee who, through exceptional knowledge and behavior, performs a physical act which saves the life of another person and there is no immediate danger to the officer's life.

### *Timeliness*

A critical priority in dealing with complaints is the need to resolve them in a timely manner. Providing recommendations on how to improve the timeliness of complaint handling has been a priority for the Office of the Independent Monitor (OIM) since its inception.

For information on timeliness goals established by the Monitor for DSD handling of complaints and the status of the Department's achievement of such goals, see Appendix F, which can be found online at [www.denvergov.org/oim](http://www.denvergov.org/oim) [reports - annual reports – 2008 Appendix].

Table 3.12 compares case timeliness (number of days from receiving the complaint to closing the complaint) by the complaint type. The cases included in this table are those that were received after August 1, 2005 and closed between January 1, 2008 and December 31, 2008 and did not include reprimands issued by an officer's immediate supervisor.

Inmate-initiated complaints took the fewest days, on average, to close at 41.3 days while management-initiated complaints took the longest, on average—80 days.

**TABLE 3.12 NUMBER OF DAYS TO CLOSE COMPLAINT BY COMPLAINT SOURCE (DSD 2008)**

COMPLAINT SOURCE	Mean	Median	TOTAL
Citizen	46.7	27.5	74
Employee	77.4	66	16
Inmate	41.3	22.5	182
Management	80.0	55	153
Missing	98.7	60.5	12
AVERAGE	68.8	46.3	437

### Timeliness of Pre-disciplinary Hearings

After a case has been sustained by a Division Chief, and if the Division Chief believes the policy violation would warrant discipline more than a reprimand, the case will be set by Internal Affairs for a Pre-Disciplinary Hearing. At that hearing, the involved officer has an opportunity to provide any mitigating information available to the Division Chiefs and the Director of Corrections.

The Monitor compared the timeliness for the imposition of discipline for Sheriff cases where pre-disciplinary hearings were conducted. We are pleased to report that the timeliness in the imposition of discipline has improved significantly over the past three years. Specifically, in 2006 it took an average of 198 days to close an internal affairs case where a deputy received suspended time up to and including termination. In 2007, the average improved to 166 days. In 2008, there was further improvement, with the average being 155 days.



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## CHAPTER 4

### CRITICAL INCIDENT REVIEW



## *The Monitor's Critical Incident Roll-Out Protocol*

City Ordinance requires the Independent Monitor's Office to "monitor and participate" in officer-involved shooting and in-custody death investigations. The ordinance also requires that "upon completion of the DA's investigation, but not later than 60 calendar days from the date of the incident, the IAB from either the Police or Sheriff Department shall open a file and initiate an administrative investigation of the incident unless the Manager of Safety in consultation with the DA determines that the administrative investigation would jeopardize the DA's investigation." (Denver Revised Municipal Code, Chapter 2, Article XVIII, Section 20387(b)).

### OIM Established Roll-Out Protocol

In 2005, the Monitor's Office established a "Roll-Out Protocol" which has guided the office in determining those cases requiring on-scene visits and active monitoring throughout the entirety of an investigation.

Through this protocol, the OIM advised DPD and DSD of the need to be notified and the intent to "roll-out" to the scene of the following critical incidents:

1. Officer/Deputy involved shooting where the involved officer intentionally shoots at a human being or accidentally shoots and hits a human being.
2. Officer/Deputy involved uses of force resulting in death or serious bodily injury.
3. In-custody deaths, including suicides and inmate-on-inmate homicides.
4. Vehicular pursuits resulting in death or serious bodily injury.
5. Any officer-civilian traffic collision resulting in death or serious bodily injury where it is likely that the officer was at fault.

In addition, the DPD and DSD were asked to notify the OIM whenever there is reason to believe that mandatory monitoring may be necessary. This includes any incident where an officer is under investigation for a felony, any offense set forth in Article 3 (Title 18) of the Colorado Revised Statutes [offenses against the person], or any incident involving a misdemeanor in which a use of force or threatened use of force is an element of the offense. Upon notification, the Monitor would determine whether to roll-out to the scene of such an investigation.

There were 11 OIM roll outs during the course of 2008:

Specifically, the Monitor's Office rolled out to six DPD officer-involved shootings and one DPD in-custody death in 2008. In addition, the OIM also rolled out to the County Jail for the three suicides and one medical death that occurred during the course of the year.

## *Officer Involved Shooting / In Custody Death Statistics*

The OIM defines an “officer-involved shooting” as any discharge of a firearm by a sworn officer where the involved officer intentionally shoots at a human being or accidentally shoots and hits a human being.

### Officer-Involved Shooting Statistics for 2008:

Number of On-Duty Intentional Officer-Involved Shootings: 6

Number of Off-Duty Officer-Involved Shootings: 0

Number of Animal Shootings: 3

Number of Accidental Discharges: 2

Results of Officer Shots Fired: (1 incident involved two subjects who were fired upon)

Fatalities: 3

Injuries: 4

Number of Injuries to Officers: 0

Number of Shooting Officers: 9

Rank of Shooting Officers:

Officer: 4

Technician: 2

Detective: 1

Sergeant: 2

Race/Gender of Shooting Officers: 9 White Males.

Years of Service of Shooting Officers:

Probationers (under one year): 0

Between 1-5 years: 2

Between 6-10 years: 3

Between 11-15 years: 1

Between 16-22 years: 3

Assignments of Officers involved in DPD Shooting Incidents:

District 1: 0

District 2: 0

District 3: 0

District 4: 0

District 5: 2

District 6: 2

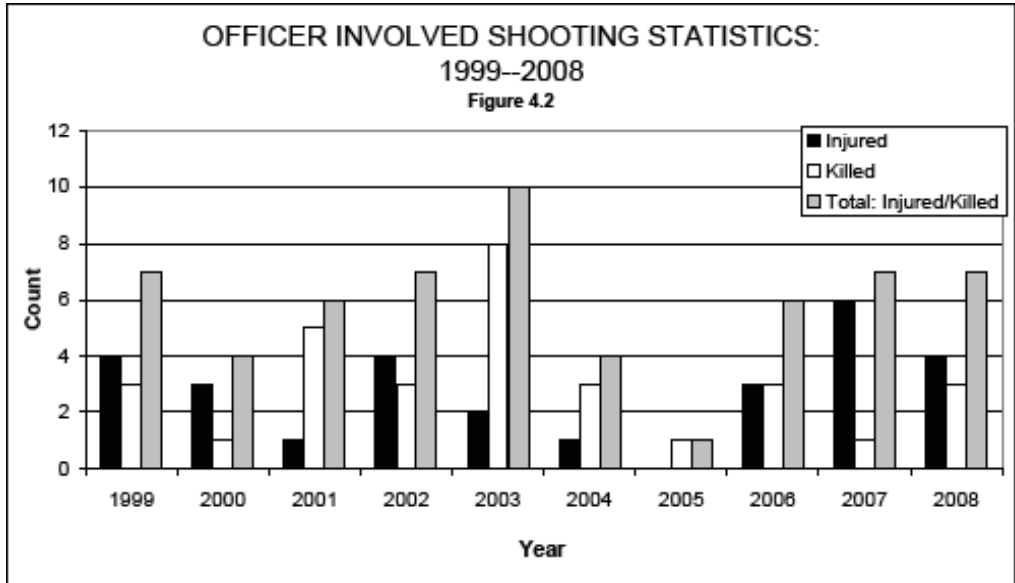
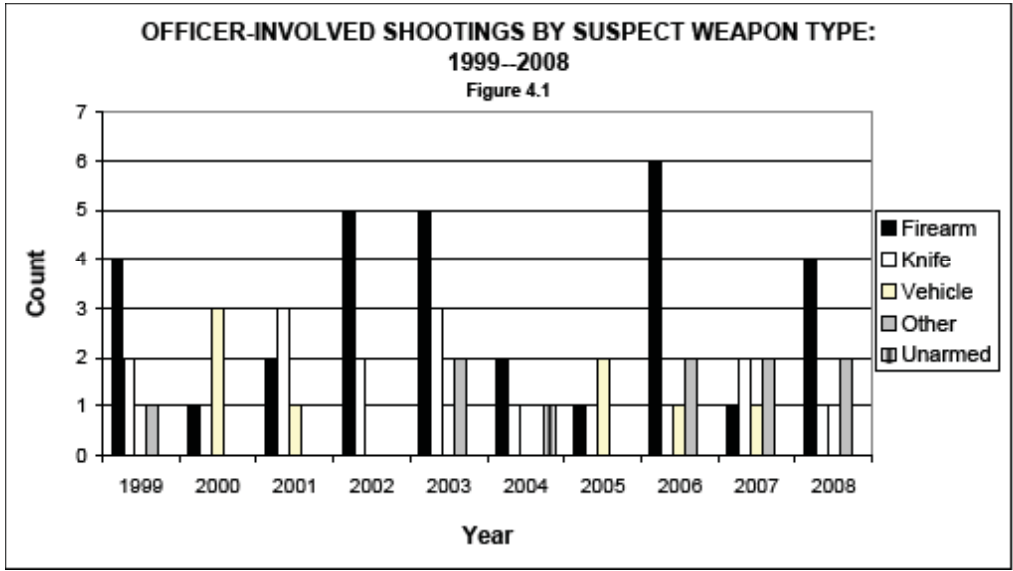
Gang Bureau: 2

SWAT: 2

Pattern Crimes Bureau: 1

Race/Gender of Subjects: 4 Hispanic Males, 3 Black Males.

Intoxication of Subjects Involved in DPD Officer Shootings: 4 likely under the influence of alcohol.



## ***Summary and Status of 2008 Officer-Involved Shootings, Investigations, and Review Processes***

There were six officer-involved shootings in 2008:

### Incident #1

April 4, 2008: Special Weapons & Tactics (SWAT) officers engaged in serving a “no-knock” search warrant for narcotics at the residence of a suspect known to habitually carry a weapon shot and killed the subject after he pointed a handgun at them.

A District Attorney officer-involved shooting investigation letter was issued on April 21, 2008 (See, [denverda.org/News\\_Release/Decision\\_Letters](http://denverda.org/News_Release/Decision_Letters)). A letter finding the shooting “in-policy” was issued by the Manager of Safety on October 2, 2008 (See, [denvergov.org/Safety/PublicStatementsfromtheManagerofSafety](http://denvergov.org/Safety/PublicStatementsfromtheManagerofSafety)).

The shooting officers were faced with a subject who brandished a handgun at them and refused to drop the gun when ordered to do so.

Pursuant to Ordinance and Protocol, the Monitor participates in and observes the investigation of the incident, reviews the case and observes the Use-of-Force Review Board and any Tactics Review Board that results from the case. The Monitor also reviews the District Attorney’s charging decision and explanatory letter and provides input to both the Chief of Police and the Manager of Safety. The Monitor’s independent determination that the deadly use of force was justified in this case is based upon his involvement, as noted above, and his review of the facts of the case. Those facts are detailed in the Manager of Safety’s extensive report (issued on October 2, 2008) on the incident. That report can be found at [www.denvergov.org/safety/](http://www.denvergov.org/safety/) by clicking on the Public Statements of the Manager of Safety tab.

### Incident #2

May 17, 2008: Officers responding to a domestic violence call shot and killed a subject who chased the officer around a car with a knife and refused orders to drop the knife.

A District Attorney officer-involved shooting investigation letter was issued on July 10, 2008 (See, [denverda.org/News\\_Release/Decision\\_Letters](http://denverda.org/News_Release/Decision_Letters)). A letter finding the shooting “in-policy” was issued by the Manager of Safety on November 12, 2008 (See, [denvergov.org/Safety/PublicStatementsfromtheManagerofSafety](http://denvergov.org/Safety/PublicStatementsfromtheManagerofSafety)).

The shooting officer was faced with a subject who brandished a knife at him and refused to drop the knife even after being repeatedly struck by pepper balls and tased by other officers.

Pursuant to Ordinance and Protocol, the Monitor participates in and observes the investigation of the incident, reviews the case and observes the Use-of-Force Review Board and any Tactics Review Board that results from the case. The Monitor also reviews the District Attorney’s charging decision and explanatory letter and provides input to both the Chief of Police and the Manager of Safety. The Monitor’s independent determination that the deadly use of force was justified in this case is based upon his involvement as noted above, and his review of the facts of the case. Those facts are detailed in the Manager of Safety’s extensive report (dated November 12, 2008) on the incident. That report can be found at [www.denvergov.org/safety/](http://www.denvergov.org/safety/) by clicking on the Public Statements of the Manager of Safety tab.

### Incident #3

June 22, 2008: Officers responded to shots fired in a parking lot after bar closing time in Lower Downtown (LoDo). The officers confronted a man armed with a shotgun and shot and injured the man after he fired a shot at one of the officers. The officers then shot and killed a second man who retrieved the shotgun from the first subject and pointed the shotgun in their direction.

A District Attorney officer-involved shooting investigation letter was issued on July 18, 2008 (See, [denverda.org/News\\_Release/Decision\\_Letters](http://denverda.org/News_Release/Decision_Letters)). A letter finding the shooting “in-policy” was issued by the Manager of Safety on December 22, 2008 (See, [denvergov.org/Safety/PublicStatementsfromtheManagerofSafety](http://denvergov.org/Safety/PublicStatementsfromtheManagerofSafety)).

One officer was hit by shotgun pellets before shooting and wounding the first subject. The second subject obtained the shotgun from the first subject and pointed it at the officers. The officers and numerous bystanders were in immediate danger from these armed subjects.

Pursuant to Ordinance and Protocol, the Monitor participates in and observes the investigation of the incident, reviews the case and observes the Use-of-Force Review Board and any Tactics Review Board that results from the case. The Monitor also reviews the District Attorney’s charging decision and explanatory letter and provides input to both the Chief of Police and the Manager of Safety. The Monitor’s independent determination that the deadly use of force was justified in this case is based upon his involvement as noted above, and his review of the facts of the case. Those facts are detailed in the Manager of Safety’s extensive report (issued on December 22, 2008) on the incident. That report can be found at [www.denvergov.org/safety/](http://www.denvergov.org/safety/) by clicking on the Public Statements of the Manager of Safety tab.

### Incident #4

September 24, 2008: Officers shot and injured a subject who fled a police contact. After a short foot pursuit, the subject attempted to barricade himself inside an apartment lobby and threatened to shoot and kill the pursuing officers. The subject ended up being unarmed, but simulated possessing a firearm by pointing his cellphone at the pursuing officers.

A District Attorney officer-involved shooting investigation letter was issued on November 6, 2008 by the 1<sup>st</sup> Judicial District’s District Attorney’s Office. As the shooting did not involve a fatality, no letter from the Manager of Safety is anticipated.

The Department found the shooting to be “in policy.” The officers believed they were in immediate danger of being shot by a person who told them he was armed. As such, the Monitor concurred with the Department’s decision to find this use-of-force to have been justified.

During the course of the investigation into this incident, it was determined that a responding officer moved the subject’s backpack and began to search it before Homicide investigators were able to secure the scene. Another officer moved a broken part of the subject’s cell phone while searching for a weapon before the scene was secured. The Monitor was advised that command staff debriefed and counseled these officers to ensure crime scene integrity in the future.

## Incident #5

October 17, 2008: An officer patrolling the lower downtown (LoDo) area at bar closing time saw the driver of a vehicle pointing a firearm towards another person. The officer shot and injured the armed person and took him into custody.

A District Attorney officer-involved shooting investigation letter was issued on October 28, 2008 (See, [denverda.org/News\\_Release/Decision\\_Letters](http://denverda.org/News_Release/Decision_Letters)). As the shooting did not involve a fatality, no letter from the Manager of Safety is anticipated.

The Department found the shooting to be “in-policy.” The officer believed that other persons were in immediate danger of being shot by the subject, who admitted to pointing a gun at another person whom he believed was reaching for his own weapon. As such, the Monitor concurred with the Department’s decision to find this use of force to have been justified.

## Incident #6

December 29, 2008: Officers were called to a residence where a relative was pounding on the door, demanding entrance, threatening to harm family members and profusely bleeding from a suicide attempt. Immediately upon arriving, the subject reportedly charged towards a responding officer. The responding officer, after ordering the subject to stop, fired three shots wounding the subject.

A District Attorney officer-involved shooting investigation letter was issued on January 22, 2009 (See, [denverda.org/News\\_Release/Decision\\_Letters](http://denverda.org/News_Release/Decision_Letters)). As the shooting did not involve a fatality, no letter from the Manager of Safety is anticipated.

As of the writing of this report, the administrative review of this incident was still pending.

## Additional Resources Added to the Use-of-Force Board Process

The Use-of-Force (“UOF”) Board reviews all officer-involved shootings and in-custody deaths involving Denver police officers. The UOF Board consists of the Department’s four Division Chiefs and two citizen volunteers. It is chaired by the Commander of Internal Affairs (who votes only in case of a tie). All UOF Board meetings are monitored by the OIM.

As of 2009, the Department added two non-voting advisory members: one tactics expert and one training expert. This Monitor applauds these additions as helping to ensure excellent decision-making regarding these important decisions in the future.

## Summary and Status of a 2007 Officer-Involved Shooting That Was Not Resolved Until After the Release of the OIM 2007 Annual Report

April 4, 2007: A patrol officer pulled in front of a vehicle that contained an armed robbery subject in order to stop a “slow speed chase” from continuing. The patrol officer stepped in front of the suspect vehicle when he saw the subject struggling with the driver of the vehicle. The subject was able to push the driver out of the vehicle and then he drove the vehicle directly at the officer who fired one shot, injuring the subject. The subject led officers on a high speed chase and eventually escaped. The subject was later arrested out of state.

On May 7, 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 had concerns with that assessment and requested further review by the Manager of Safety. The Monitor was concerned that the officer acted in an unsafe manner when he drove by the suspect vehicle, forced the vehicle to stop without following felony stop protocols and then put himself in danger by stepping in front of the suspect vehicle.

The Manager of Safety concluded that discipline was not necessary as any tactical errors did not rise to the level of a policy violation. The Monitor was informed that the Department ordered the officer to undergo further debriefing and training relating to the incident.

### Controversial Dog Shooting

On September 8, 2008, an officer shot and killed a dog thereby generating a significant amount of publicity after a civilian came forward and alleged that the officer chased the dog down and then shot and killed it.

A full investigation of the incident was conducted by the Homicide Unit, as is done whenever an officer discharges a firearm. The civilian witness failed to identify himself to investigators at the scene and then refused to provide a statement to the assigned Detectives (even after making repeated statements to the media). The witness cited advice from the dog owner’s attorney when he refused to cooperate.

The investigation revealed that the involved officer was responding to citizen complaints about an aggressive dog that was loose near an elementary school that was about to release its students for the day. One witness told investigators that the dog attacked him shortly before the officer responded (although he was not bitten). The officer stated that he shot the dog, striking it in the mouth, after the dog charged at him and came within four feet of his position. The officer shot the dog a second time after the dog turned around. The officer advised he fired the second shot to protect the public from a wounded aggressive dog and in order to avoid any further suffering by the animal.

The Department found the shooting to be “in policy” and the Monitor concurred with that finding.

### ***Monitor Review of Shootings at Unarmed Subjects***

Over the course of thirteen months (November 2007 through December 2008), four unarmed individuals were shot by Denver Police officers. The Monitor re-reviewed each of these shootings to determine if there was any pattern of such shootings where lessons could be learned and similar such shootings avoided.

The Monitor concluded that there was no discernable pattern other than three of the individuals appeared to have wanted to commit “suicide by cop,” by acting in a manner that was destined to force the involved officers to shoot them.

In one case, the individual who was shot was actively attacking the involved officer with his fists in an attempt to escape being placed under arrest. The officer, who was alone, shot and injured his assailant in self-defense.

In yet another, the individual who was shot used a cigarette lighter as a simulated firearm, late at night, after he fell to the ground during a foot pursuit. The individual threatened to kill the officer while identifying himself as a gang member. The officer, who was alone and believed himself to be in danger of being shot, was forced to make a split second decision and shot and killed the individual.

In another case, the subject held a cell phone as though it were a firearm and repeatedly threatened to shoot the involved officers when it became apparent that he would otherwise be taken into custody after a foot pursuit. That individual was shot and injured.

In the final case, a suicidal person ran directly towards the involved officer after having been ordered to stay on the ground. The subject was bleeding profusely and holding a metal crucifix and a cell phone. The officer was forced to make a split-second decision and shot and injured the individual believing himself to be in danger of being attacked and possibly stabbed.

Questions that are frequently asked in cases where an unarmed person is shot by a police officer include: Why didn't the officer just shoot the person in the arms or legs to stop that person from approaching the officer? Are officers trained to shoot to kill? Why didn't officers use less-lethal techniques (taser or bean bag shotgun) instead of deadly force?

The Denver Police Department, appropriately does not train its officers to "shoot to kill," but instead to "shoot to stop" the threat. As such, the officers are trained to aim for the main torso area where it is most likely that the bullet will actually strike and stop the suspect. Shooting at arms or legs is not practical (particularly when the subject is moving) and can lead to stray bullets which can endanger other members of the community. In addition, a shot to a limb is less likely to stop an attacker than a shot to the torso.

In each of these cases where less lethal techniques were not used, the incident either moved too fast for the officer to have an opportunity to deploy the less lethal weaponry and/or the officer was faced with what was believed to be a potentially lethal attack. Department training does not recommend the use of a less lethal weapon to defend against a lethal attack. The danger that the less lethal weaponry will not stop the threat is too great under such circumstances.

When considering these specific cases, it must also be recognized that over the course of the same period of time, there have been multiple occasions where officers have not used deadly force even where its use might have been justified. (See Chapter 3, regarding the issuance of 18 STAR awards issued in 2008 to employees who, through exceptional tactics, acted to successfully resolve a critical incident without the use of deadly force).

The Monitor will always give special attention to cases involving the shooting of an unarmed person or the shooting of a person trying to commit suicide by provoking an officer to use deadly force. In some cases, however, as with those cases noted above, officer options can be significantly limited by the actions of the person whom they are required to confront.

## *Summary and Status of In Custody Deaths, Investigations and Review Processes*

There were five in-custody deaths in 2008, four in the Denver County Jail, and one after a subject was taken into custody by DPD officers.

### In-Custody Suicides

There were three suicides and one medical death at the County Jail in 2008:

Internal investigations were conducted as to all four incidents. Each investigation was actively monitored by the OIM.

An internal affairs investigation was conducted with respect to a County Jail suicide that took place on February 16, 2008. The Department concluded that all policy and procedures were followed during the time of the incident, and concluded that the actions of the involved deputies were “swift and appropriate.”

An internal affairs investigation was conducted into a medical death that took place on August 28, 2008. The Department’s review of the investigation determined that the inmate died from a pre-existing medical condition. No policy violations were identified.

An internal affairs investigation was initiated with respect to a County Jail suicide that took place on October 22, 2008. That investigation was still pending as of the writing of this report.

An internal affairs investigation was conducted with respect to a County Jail suicide that took place on October 26, 2008. The investigation was completed and was still pending review, but close to completion, as of the writing of this report.

The Monitor noted that the quality of in-custody death investigations conducted by the Sheriff Department has improved significantly since the time the Monitor’s Office began its work. Specifically, investigations now evaluate not only the Department’s response to the incident itself but also issues relating to the classification of the inmate, the adequacy and frequency of the deputies monitoring of their assigned area of the jail, and whether any additional attention to the inmate’s mental health could have potentially avoided the inmate’s death.

### DSD In-Custody Death Investigation Not Resolved Until After Writing of 2007 Annual Report

On February 24, 2007, an inmate at the County Jail committed suicide by hanging himself with a bed sheet from his bunk bed. The inmate was discovered in rigor mortis with a noose tied around his neck. According to the medical examiner, the inmate had been dead for more than an hour before he was found.

Deputies are required to monitor their assigned area of the jail at least twice per hour while alternating these “rounds” to prevent predictability. During the last round conducted by the involved deputy, the deputy failed to see the inmate hanging from his bunk. In addition, the investigation disclosed that the deputy failed to conduct two rounds per hour as required by DSD policy.

The Manager of Safety ordered the deputy terminated. The Monitor concurred with the termination decision, which was based on the deputy’s practice of failing to conduct rounds in a timely fashion and the fact that the last round conducted was clearly inadequate in that the deputy did not see the inmate hanging from his bunk. In addition, the deputy had a substantial prior disciplinary history.

### One death following Denver Police officers taking persons into custody

The subject died after being held down by four officers after he led officers on a brief foot pursuit. The subject had repeatedly called and hung up on 911 operators after having attacked his girlfriend and taking her cell phone. The coroner attributed the death to methamphetamine toxicity and a possible adverse reaction to prescription drugs injected into the subject by paramedics to calm him down. Force included take-down and control holds and hand strikes. No District Attorney letter was issued as there was no evidence that the officers' actions caused the subject's death.

The Department exonerated the officers after an administrative review. The Monitor concurred with that decision.

### 2007 DPD In-Custody Death Not Resolved Until After Completion of 2007 Annual Report

On October 11, 2007, officers responded to reports that a man was trying to break into a residence and was yelling incoherently. The officers arrested the man, who had broken into the residence by jumping through a window. Officers used take-down techniques to place the subject into custody. After taking the subject to the ground, he stopped breathing. He was resuscitated by officers and taken to the hospital, where he died three days later.

Neither the Homicide Bureau nor the OIM rolled out to this incident as it was reported at the time of the incident that the subject was resuscitated and expected to survive. After he died, the use-of-force and arrest reports were all immediately obtained and reviewed by IAB and the OIM.

The Department concluded that the officers did not violate any policy or procedure. The autopsy report was unable to determine a cause of death. The Monitor concurred with the decision that the officer's actions were "in policy."

### "Excited Delirium" Cases and Potential Future Policy Review

Over the course of the last three years, there have been four in-custody deaths wherein Denver police officers restrained individuals who appeared to be under the influence of drugs and who subsequently died. Each of these cases found no policy violations on the part of the involved officers and the autopsy reports were generally unable to tie the deaths to any police use of force.

Each of these deaths fell within a category of deaths commonly referred to as "excited delirium." These are generally described as deaths where there are commonalities of narcotics intoxication and failures to understand and/or comply with police orders, extreme physical exertion, pre-existing medical conditions and a police use of force.

Although the Monitor is aware that the DPD has training and policies in place relating to this issue, the OIM intends to research national best practices in the upcoming year into police training and policies relating to "excited delirium" deaths. The Monitor's Office will then confer with DPD command staff to determine if any additions or changes to DPD policy and training in this area would be beneficial.

## 2007 DPD Officer-Involved Fatal Traffic Collision Not Resolved Until 2009

October 7, 2007: An officer responding to a request for a cover officer was traveling with lights and sirens (“Code 10”) through a red light at a high rate of speed. The patrol car struck a car driven by a civilian who was driving through the green light at a lawful speed. A passenger in the vehicle, who was not wearing a seat belt, was ejected from the car, which rolled on top of him. The passenger did not survive.

The case was investigated by the Traffic Investigations Bureau (TIB). The OIM rolled out to the scene and monitored interviews conducted by TIB Detectives.

The District Attorney’s Office filed two criminal charges of careless driving causing death and careless driving causing substantial bodily injury against the officer. On September 5, 2008, the officer pleaded guilty to the infraction of failing to yield to a traffic control device.

As of the writing of this report a disciplinary decision was still pending, but nearing completion.



**DENVER**  
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## CHAPTER 5

### SPECIAL INITIATIVES AND POLICY ISSUES



## *Monitor's Report On The Democratic National Convention*

During the course of 2008, both the Denver Police and Sheriffs Departments were required to prepare for the largest law enforcement-related event in the history of the City & County of Denver, the Democratic National Convention (DNC).

Both Departments spent enormous time and resources preparing for the event. Policing the DNC required the efforts of more than 3,300 law enforcement officers from 57 state and local agencies. It also involved thousands of contacts between officers and members of the Denver community as well as out-of-state and international visitors.

The Monitor's Office chose to treat the DNC as a "critical incident" warranting the active monitoring of police actions as they took place. Monitor staff observed many of the protests that took place during the course of the DNC. In addition, Monitor staff responded to a mass arrest on August 24, 2008, observed the arrests taking place and monitored the processing of the arrestees by both the Police and Sheriff Departments throughout the night.

The OIM actively monitored all internal affairs cases that were initiated as a result of the DNC. Overall, there were only a small number of DNC-related complaints compared to the number of police contacts and the number of officers assigned to the event. Those cases wherein officers were "sustained" for failing to follow police policy or procedure were mostly minor in nature and none involved injuries to members of the community.

The following is a list of all DNC-related complaints, totaling eight cases in all, relating to the Denver Police and Sheriff Departments during the course of the DNC, and their final results:

1. An officer allegedly used excessive force against a protestor affiliated with the group "Code Pink" by pushing her to the ground and used profanity during the encounter.

The officer was "not sustained" for use of excessive force, but was "sustained" for discourtesy for the use of profanity. This incident received significant national attention as it was initially caught on tape by the "Rocky Mountain News" (RMN) and subsequently posted on "You-Tube." Unfortunately, the RMN refused to turn over the entire videotape of the contact between the involved officer and the protestor. Instead, the only video available for administrative review showed the protestor yelling at the officer: "F\*\*\*\*\* do it again!" and the officer immediately thereafter pushing the protestor to the ground. The officer stated that it was an act of self defense as the protestor had repeatedly grabbed at his baton, refused multiple orders to "get back," and was continually yelling at him while in close enough proximity to attack him. The protestor admitted that she failed to follow the officer's orders and corroborated much of the officer's version of the incident. The officer acknowledged that he lost his temper and used profanity, a violation of DPD policy for which he was "sustained."

2. A supervisor used profanity, which was overheard by a television news crew, while instructing a subordinate officer to deploy a less-lethal shotgun against an unruly protestor.

The department concluded that the officer's instruction to deploy the shotgun was appropriate given the circumstances but that the use of profanity was unnecessary. The officer was counseled and debriefed about the incident.

3. A supervisor allegedly used unnecessary force against a juvenile anti-abortion protestor who was writing anti-abortion messages on a City sidewalk.

The allegation that the officer used unnecessary force against the protestor was pending review at the time of the writing of this report.

4. An officer allegedly used unnecessary force on and arrested an ABC television news producer for trespass while he was covering a story outside of the “Brown Palace” hotel.

This incident was broadcast and re-broadcast by ABC news claiming that their producer was arrested for covering an important story while in a public place and that he was arrested for a crime he did not commit. In addition, ABC news reported that an unidentified officer also made inappropriate comments that the producer was lucky he had not been beaten. ABC declined, however, to cooperate with an internal affairs investigation and refused to turn over unedited video of the incident. As such, the Department concluded there was insufficient evidence to prove or disprove any misconduct and declined to further investigate the incident.

The Monitor’s office received numerous complaints from persons around the country who saw the video (but did not personally witness the incident). A number of persons complained that the arresting officer was “chomping” on a cigar during the course of his videotaped contact with the ABC producer. DPD policy, however, does not forbid an officer from smoking or using tobacco products while in uniform or conducting official business outside a police vehicle or police facility. (See discussion later in this chapter about the DPD smoking policy, and recommendations for further review of that policy).

ABC lawyers eventually provided the City Attorney’s Prosecution Unit with additional videotape of the incident, which was later obtained by the Monitor’s Office. After viewing the additional footage, the City Attorney’s Prosecution Unit declined to pursue charges and dismissed the trespass citation against the reporter.

After viewing the video, the Monitor requested that it be forwarded to the Boulder County Sheriff’s Department for further review of their own employee’s conduct as it appeared that a Boulder County Deputy Sheriff was the primary officer involved in instructing the news crew that the sidewalk was not public property (which was incorrect). The Boulder Deputy was also videotaped pushing the producer across the street and could be heard on the video telling the producer: “You’re lucky I didn’t beat the F\*\*\* out of you.”

The arresting officer retired from the DPD shortly after the DNC and, was therefore, no longer subject to any administrative sanction.

Due to the involvement of a number of Denver Police officers in this incident, Internal Affairs agreed to provide additional training to its officers on the rights of the media vis-à-vis private property owners in the Department’s Civil Liability Bureau Newsletter.

5. An officer placed political bumper stickers on his marked police motorcycle during the course of the DNC.

The officer was “sustained” for misconduct. His decision to express his personal political beliefs on a police vehicle was unacceptable and supported the imposition of discipline.

6. The ACLU alleged that the department violated its own policies and procedures in arresting more than 100 protestors who were heading towards the 16<sup>th</sup> Street Mall during a non-permitted march.

The Monitor's Office received three written complaints from the ACLU, which were concurrently sent to the media. The Monitor declined the complaints as failing to state misconduct. Police command staff decided to detain and arrest protestors based on a valid concern that the protestors were intent on causing damage to persons and property on the 16<sup>th</sup> Street Mall. Although there was some miscommunication between the witness officers and the officers making the arrests, regarding whether orders to disperse had been given, no dispersal order was required under the circumstances. Further, the City Attorney's Office Prosecution Unit concluded sufficient evidence existed to pursue multiple prosecutions. (For more detail on the Monitor's conclusions, see the Monitor's declination letter which can be found on the OIM website, located at [www.denvergov.org/oim](http://www.denvergov.org/oim) [press releases]).

7. A Deputy Sheriff broadcast a portion of a sexually explicit television show over the radio while assigned to a DNC post at a fire station.

The Deputy was "sustained" for misconduct and disciplined.

8. An arrestee alleged that she was detained for an excessive amount of time after posting bond and was driven to the wrong bus stop when she was released.

The Sheriff Department determined that the arrestee was released within 70 minutes after posting bond and was driven to the same bus stop as all other arrestees. As such, no misconduct was identified.

In total, of the eight complaints, four resulted in sustained findings by the Departments. The Monitor believes that the discipline imposed in these cases (as reported in the Monitor's quarterly disciplinary reports) was reasonable and appropriate given all the circumstances and that the "not sustained" findings were reasonable and appropriate as well.

### ***Monitor's Report On The DPD Response To The Deadly Force Audit Conducted By The Police Assessment Resource Center***

In June of 2008, the Monitor's Office published a report written by the Police Assessment Resource Center (PARC), at the behest of the OIM, which reviewed Police Department deadly force policies and evaluated the quality of the investigations and administrative review of officer-involved shootings for a four-year period (1999-2003).

Although a review of the criminal investigation and review process for officer-involved shootings was conducted by the "Erickson Commission" in 1997, no overall review of deadly force policies or the administrative review process for officer-involved shootings had ever been conducted.

Overall, the report found that the Police Department is currently a national leader in this area and found no systemic problems in the investigation or review of deadly force incidents in the present day. Even so, PARC made a total of 69 recommendations for improvement: 33 of the PARC recommendations related to DPD "deadly force" and "use of force" policies; 14 recommendations related to investigation procedures; 13 recommendations related to the administrative review process; and, 9 recommendations related to management of critical incidents.

In January of 2009, the Police Chief provided the Monitor with a formal response to the report's recommendations. (The response to the report is available on the OIM website, located at [www.denvergov.org/oim](http://www.denvergov.org/oim) [reports] [PARC - Denver Report on Deadly Force]). The Chief "agreed," "agreed in concept" or "agreed in part" with 57 of the recommendations (83%). The Chief disagreed with only 11 of the PARC recommendations (16%) and noted he had no jurisdiction over one other.

#### Recommendations Rejected by the Chief:

1. The Chief declined to revise the DPD's definition of "deadly force." Instead, DPD will retain its definition, which is consistent with the Colorado statute's definition of "deadly physical force" - "that force, the intended, natural, and probable consequence of which is to produce death and which does, in fact, produce death." C.R.S. 18-1-901(3)(a)(d). PARC recommended that the DPD's definition be changed to one more commonly used across the nation: "that degree of force, the intended, natural, and expected consequence of which, or the misapplication of which, is likely to produce death or serious bodily injury."

*The Monitor agrees that the current definition of "deadly physical force" in Colorado appears archaic, because it effectively means that, if a person shoots another person with a gun and the victim survives, deadly force was not used. Nevertheless, there do not seem to be any practical differences between the current DPD policy and the recommended policy, even if the recommended policy is academically more precise. DPD deadly force policy is in accord with other national policies in controlling the circumstances under which a DPD officer can intentionally discharge his or her firearm at any person. As such, the Monitor does not believe further review or action on this recommendation is necessary.*

2. The Chief declined to revise DPD policy to delete a reference to a Colorado case which specifically notes that an officer is not required to retreat from an attack rather than resorting to physical force. PARC believed reference to the case was contrary to another portion of DPD policy which makes it clear that "when reasonable under the totality of circumstances, officers should use advisements, warnings, verbal persuasion, or other tactics and recognize that an officer may withdraw to a position that is tactically more secure or allows an officer greater distance in order to consider or deploy a greater variety of force options." PARC suggests that "the two statements are conflictive and do not give clear guidance to a police officer whether he should or should not retreat."

*The Monitor agrees with the Chief that the two statements are not conflictive and that they can reasonably be read together so that an officer understands that, although not required by statute to "retreat," the department expects the officer to use tactics other than force or deadly force when reasonable under the totality of the circumstances. In fact, as noted by PARC, the DPD was able to impose substantial discipline on an officer in a prior shooting who failed to "retreat" and that penalty was upheld by the Civil Service Commission and the District Court based on current policy.*

3. The Chief declined to revise "Taser" policy to restrict the "display" (or brandishing) of the Taser by an officer who does not have "an objectively reasonable belief that the discharge of the Taser is imminent." The Monitor agrees with the Chief that, if the brandishing of a Taser can obtain compliance and avoid a use of force, even if an officer might not be able to actually use the Taser in a specific circumstance, the brandishing of the taser is not necessarily inappropriate. The Monitor will work with the Chief to determine if alternative wording to this recommendation can be identified.

4. The Chief declined to limit canine searches to “commercial buildings or instances in which the suspect is wanted for an offense of violence or reasonably is suspected to have a weapon.” The Chief noted that current policy requires canines to be under handler control both on and off leash. The Chief indicated willingness, however, to consider revising the canine search policy with more specific boundaries for the deployment of the canine beyond the use of force policy.

*The Monitor believes the Chief’s conclusions in this regard are reasonable.*

5. The Chief declined to accept PARC’s recommendation that “Internal Affairs...commence its investigation of policy and tactics issues immediately after [a] shooting, without waiting for the completed Homicide investigation.”

*Although such a practice would substantially improve timeliness of the administrative review of officer-involved shootings, there is a need to separate the criminal and administrative investigations of a critical incident. The Monitor has noted that the timeliness of DPD administrative reviews has improved dramatically over the past years and that the quality of Homicide investigations has been such that further internal affairs review has been unnecessary in most cases. The Monitor and Internal Affairs are given the opportunity to suggest additional questions during the course of the Homicide investigation, thus the Monitor does not believe it is currently necessary to make such a dramatic change in how these cases are investigated by Internal Affairs.*

6. The Chief noted that PARC’s recommendation that “to the extent feasible, one investigator should conduct all the interviews on one case” is “rarely feasible.”

*While the Monitor agrees with PARC’s recommendation in concept, the Monitor also agrees with the Chief that, as long as the need to coordinate information between detectives, supervisors and commanders is recognized, it is often impracticable to make witnesses and officers wait until one single investigator can interview each and every witness one-by-one throughout the day or the night.*

7. The Chief noted that PARC’s recommendation that “investigators should be required, before they interview a witness, to know what other witnesses have said on the same subject” is potentially impracticable.

*The Monitor tends to agree that, while generally investigators do know what other witnesses are saying throughout the course of the investigation, requiring this in every case is not practical. The Monitor is comfortable that, if something is missed during the course of interviews conducted immediately after an incident, investigators (either from Homicide or Internal Affairs) would be able to correct any problems during the course of any follow-up investigation.*

8. The Chief declined to accept the recommendation that all recorded interviews in officer-involved shootings be transcribed.

*The Monitor agrees that transcribing all interviews is not necessary in every case and would be cost prohibitive. Due to a lack of public resources, reason, logic, and common sense should be used in determining which interviews need to be transcribed in order to ensure an appropriate administrative review.*

9. The Chief declined to have each member of the Use-of-Force Board vote on whether an officer's actions should be classified as "Unfounded," "Exonerated," "Not Sustained," or "Sustained." The Chief pointed out that the current policy is "working well" and that each board member must form an opinion about the incident being "in-policy" or "out-of-policy."

*The Monitor has noted that the Department already has a means by which the "Unfounded," "Exonerated," "Not Sustained" and "Sustained" findings can be applied to an officer-involved shooting incident. Specifically, if the Use-of-Force Board, the Chief or the Monitor identify a specific policy violation that should be "sustained," the review process will then use the language recommended by PARC (and traditionally used by internal affairs) in determining the appropriate finding. If all reviewers concluded that the shooting is "in-policy," then the "Exonerated" finding will be documented by Internal Affairs. As such, the Monitor agrees that no further policy change is necessary relating to this recommendation.*

10. The Chief declined to amend the policy manual to provide for an additional case classification: "Exonerated – Tactical Improvement Opportunity." The Chief believes that the current process is working well, leaving the assessment of tactics to the expertise of the Tactics Review Board.

*The Monitor tends to agree that leaving such assessment to the Tactics Review Board has merit, but believes that allowing the Tactics Review Board to amend an otherwise "exonerated" finding would be a good practice.*

11. The Chief declined to accept PARC's recommendation that the Independent Monitor participate in the deliberations of the Use-of-Force Board when citizen members of the board fail to raise the Independent Monitor's concerns. The Chief notes that the Independent Monitor currently presents his specific case recommendations to a Deputy Chief or higher and that an additional presentation in a Use-of-Force Board would not be appropriate.

*The Chief is correct that a reading of the current City ordinance supports that position. There are certainly times, however, when a disagreement between the Board and the Monitor could be avoided if the Monitor were given the opportunity to discuss his concerns with the Board during the course of deliberations.*

#### Recommendations Accepted by the Chief or Accepted "In Concept" or "In Part":

The Monitor will work with the DPD over the course of the year to implement those recommendations which have been accepted by the Chief or accepted in concept or in part. The Monitor will report in next year's annual report on the status of the implementation of these recommendations.

The Monitor notes that the Chief's response to this report was thoughtful and comprehensive and looks forward to implementing many of the PARC recommendations over the course of time.

### ***"Wrong Person" Arrests & Detentions***

#### Sheriff Department

Over the course of the year, there was significant publicity over a number of persons arrested on warrants that were issued for other persons and then detained by the Sheriff Department before being released either on bond or after appearing before a judicial officer.

In the past, there have been no specific policy requirements regarding how Sheriff deputies were to handle allegations by inmates that they were being held on a warrant issued for another person. As such, past practice in this area was undefined and ambiguous.

Upon realizing that there was the possibility of persons being wrongfully detained after having been misidentified, the Department worked to improve policies in the City Jail to try to ensure that innocent persons were not being wrongfully detained. The Monitor was impressed that the Department decided that it could play a role in reducing the level of harm caused by a mistake, even if there were only a few amongst the hundreds of thousands of inmates processed through the City and County jails every year.

Specifically, the Department now requires that all deputies to whom a claim of a wrongful detention is made immediately report that claim to a supervisor, who will conduct an investigation and take appropriate action. It must be noted, however, that inmates frequently make false claims of wrongful detention and, therefore, the Sheriff Department must act carefully before taking any action to release an inmate without judicial review.

Another issue came to light during the course of the year with respect to persons arrested on warrants issued by other jurisdictions. Specifically, once a person is arrested on an out-of-county warrant, the Sheriff immediately notifies the jurisdiction that issued the warrant that the prisoner is being held and is available for pick up. Unfortunately, due to jail overcrowding in other jurisdictions, some jurisdictions have waited up to ten days before picking up their prisoner. In one case, the result was that a person arrested on another person's warrant was held in custody for eight days without the opportunity to see a judge.

There are a number of possible solutions to this issue:

1. The Department could require other jurisdictions to pick up their prisoners within a reasonable period of time or the prisoner will be released;
2. The Department could transport prisoners to the other jurisdiction on their own; or,
3. The Department could provide the prisoner access to a Denver judicial officer within a reasonable amount of time.

Each solution has its own challenges:

1. If the Sheriff were to release a prisoner who was not picked up by the other jurisdiction within a time period the Sheriff determined to be reasonable, and if that prisoner subsequently commits a crime or is not held accountable for their prior criminal conduct, the Denver Sheriff could be the subject of legitimate criticism. As a law enforcement agency, the Sheriff Department would be put in a very difficult position to simply release a prisoner based on an arbitrarily set time limit.
2. The cost of not only picking up Denver's prisoners from other jurisdictions, but also delivering prisoners to other jurisdictions is prohibitive and would require the hiring of additional deputies. Currently, it is the state practice for jurisdictions to pick up their own prisoners and not to transport another jurisdiction's prisoners at their own cost.
3. In order to provide out-of-county prisoners with access to a Denver judicial officer within a short period after arrest, the Department must obtain the consent of the judges of the Denver County Court and create a new process to ensure appropriate transportation.

As of the writing of this report, the Monitor has been advised that the Sheriff Department and the County Court are working on a resolution which would permit prisoners to see a judicial officer within a reasonable period after their arrest. The Monitor looks forward to a resolution of this issue of concern in the near future.

#### A New Case Alleging Wrongful Detention Based on Mistaken Identity

In January of 2009, another complaint was made alleging that an inmate was repeatedly transferred from Arapahoe County to Denver County based on another person's warrant and, thus, inappropriately held in the Denver County Jail for a significant period of time. A Sheriff internal affairs investigation was initiated in order to determine whether any members of that agency violated any policies or procedures. That investigation is pending as of the writing of this report and will be monitored by the OIM.

Pending the completion of the internal affairs investigation, however, the Monitor learned that the case involves issues of communication between numerous agencies including the Police and Sheriff Departments, the courts and the Colorado Crime Information Center (CCIC). The Manager of Safety has created a working group to review and assess the entire process of identification, including identifying all stakeholders with input and duties in the identification process (i.e. Police, Sheriff, Colorado Bureau of Investigation, CCIC/NCIC, Courts) and mapping out the total system as a step towards preventing future problems.

#### Police Department

The Denver Police Department initiated three investigations in 2008 into allegations that officers arrested persons on warrants that were issued for other persons. Due to the filing of civil lawsuits, some of the involved persons subsequently refused to cooperate with the internal affairs investigations, which made it difficult for the Department to conduct complete investigations.

Based on the information available to the Department, however, it was able to conduct three formal investigations. In two cases, it was determined that officers had violated established policies and procedures resulting in an arrest on a warrant that was not his or her own and discipline was imposed. One case investigation was pending command review as of the writing of this report. After reviewing each of these investigations, the Monitor's Office did not believe there were any systemic problems with DPD policies that needed to be updated or changed. Instead, had the officers followed policy and procedure in the cases where sustained findings were made, the arrests would likely not have been made.

#### ***“Departing From The Truth”***

#### OIM Concerns Regarding the Imposition of Discipline & Disciplinary Recommendations from the Police & Sheriff Departments

In past Annual Reports, the Monitor has expressed concern regarding a history of the Police and Sheriff Departments' failure to terminate employees who had been “sustained” for lying during the course of Internal Affairs investigations. Since then, as of October 1, 2008, the Police Department has initiated a new “disciplinary matrix” which calls for presumptive termination for an officer who has intentionally and deliberately “departed from the truth” during the course of a judicial hearing or a criminal or administrative investigation. The Sheriff Department is expected to adopt a similar disciplinary matrix next year.

In addition, in past reports the Monitor has expressed concerns that the DPD had previously “sustained” officers for integrity-related issues without creating a process to evaluate whether the sustained finding would have a detrimental effect on the officer’s future credibility in court. Since that time, the DPD has created a process to ensure that the appropriate prosecutorial agencies are aware of the sustained findings so that they can take any necessary actions in that regard. The Chief has also taken these sustained findings into account in deciding where to assign these officers after they have returned from disciplinary suspension.

As such, the Monitor’s Office is satisfied that this systemic issue is being adequately addressed by the DPD and the Department of Safety. Manager of Safety Alvin LaCabe deserves enormous credit for bringing the City of Denver to the forefront amongst law enforcement agencies in the United States with respect to ensuring appropriate discipline in such cases and fair and consistent discipline in general.

### ***Community Concerns Regarding Biased Policing***

Over the last year, the OIM has become aware of community concerns regarding the “Broken Windows” approach to policing (saturating areas where patterns of crime are taking place with additional officers) and whether that practice has resulted in an increase in racially-biased policing with a negative effect on communities of color.

The issue of whether officers engage in “biased” policing is not a new one or specific to the City of Denver. The Monitor’s Office has previously chosen to address this issue by promoting mediation for racial profiling complaints, which are otherwise notoriously difficult to prove and where police and community perceptions can differ substantially. Through the mediation process, community members learn whatever race-neutral reasons may have existed for a contact and officers have an opportunity to learn why community members may perceive bias and how to avoid inadvertently causing those perceptions.

In 2007, the Monitor’s Office participated in an intensive seminar on issues relating to racially biased policing, facilitated by a national expert in the area. The Monitor specifically reviewed current DPD policies in that regard. The Monitor found that current DPD policies relating to racially biased policing are considered to be a national best practice and were developed in an inclusive and professional manner.

Last year, the Monitor worked with Internal Affairs command staff to ensure that racially biased policing complaints were being appropriately categorized so as to be better able to track patterns in such complaints, in general and as to specific officers. Command staff instructed IAB personnel as follows: “Effective immediately, please consider using/adding one of these [Rules & Regulations] (RR-128: “Impartial Attitude” or RR-102 as it Pertains To 118.00 – “Biased Policing”) when initiating a complaint and/or choosing specifications where it is alleged that the officer only stopped the citizen because of his/her race or called them a racial name – instead of just using something generic such as rudeness or improper procedure.”

The OIM is also aware that both the Deputy Chief and Division Chief in charge of the Police Academy are actively involved in researching current training and recruitment practices to avoid racially biased policing that may have a negative effect on the Department’s relationship with communities of color in Denver.

In addition, the OIM is currently working with the Department to determine if it is possible for the “Personnel Assessment System” to identify, through data analysis, any problematic racially biased policing activities on the part of specific patrol officers. The issue of data collection and analysis in this area is

extremely difficult and complex and has been the subject of years of debate amongst academics and policing professionals. As such, the OIM will be evaluating the positives and negatives of incorporating traffic enforcement racial profiling analyses into the early intervention system. The OIM hopes to be able to report on whether this is possible in next year's annual report.

Finally, the Citizen Oversight Board has asked the Monitor's Office to research to what extent cameras can be placed in patrol cars (or on officers' persons). Audio and video evidence of police traffic stops and contacts could be used to prove or disprove allegations of misconduct. As per the COB's request, the Monitor's Office will be researching this issue in the upcoming year.

### ***Monitor Concerns Regarding Entries Made Into Private Residences***

During the course of the year, the Monitor noted some cases wherein officers made entry into private residences without consent, a warrant, or exigent circumstances. In most of these cases, the officer's command staff and/or internal affairs believed that the officers' actions were reasonable. In each of these cases, substantial legal research was necessary to establish the appropriate protocol. As such, the Monitor did not believe that the officers entered the residences knowing that their actions were not permitted under the 4<sup>th</sup> Amendment, but rather without a complete understanding of when such an entry is permissible.

The Monitor and Internal Affairs Command Staff agreed that the best way to resolve these issues was by, first, passing along case research to the involved officers and their chain of command resulting in debriefings and counseling sessions and, second, by addressing the issues in general in a new "Civil Liability Bureau Newsletter," which was published in the Summer of 2008. The first newsletter dealt specifically with issues relating to when officers were permitted to make a warrantless entry into a location without consent.

Since the time of the publication of the inaugural version of the Newsletter, the Monitor has identified several additional cases that raised issues of concern. These cases included officers entering into a motel room without consent to turn off loud music, entering into residences without consent based on officer safety concerns and entering into a residence without consent based on possible underage drinking. The Monitor will be working with the Civil Liability Bureau and the City Attorney's Office to ensure that the upcoming Newsletter adequately addresses the issues raised by these cases.

### ***The Police Department's Early Intervention System (Personnel Assessment System – PAS)***

Like most police organizations, the Denver Police Department uses many tools to manage the activities of its officers. Tools include the screening of recruits, initial and ongoing training, and the disciplinary system. The DPD requires officers to file mandatory use-of-force reports and has established a Use-of-Force Review Board, with citizen representation, to review officer-involved shootings and serious incidents of use of force.

In 2004, the DPD created an Early Identification and Intervention System (EIIS). The system included data relating to arrests, training, education, uses of force, leave and overtime, traffic collisions, pursuits, secondary employment, civil liability information, commendations and complaints.

In 2007, the Department finalized a new policy that significantly improves on the previous system. The "Personnel Assessment System" (PAS) was created and the Chief appointed a diverse board to monitor the system and make recommendations as to its implementation and use.

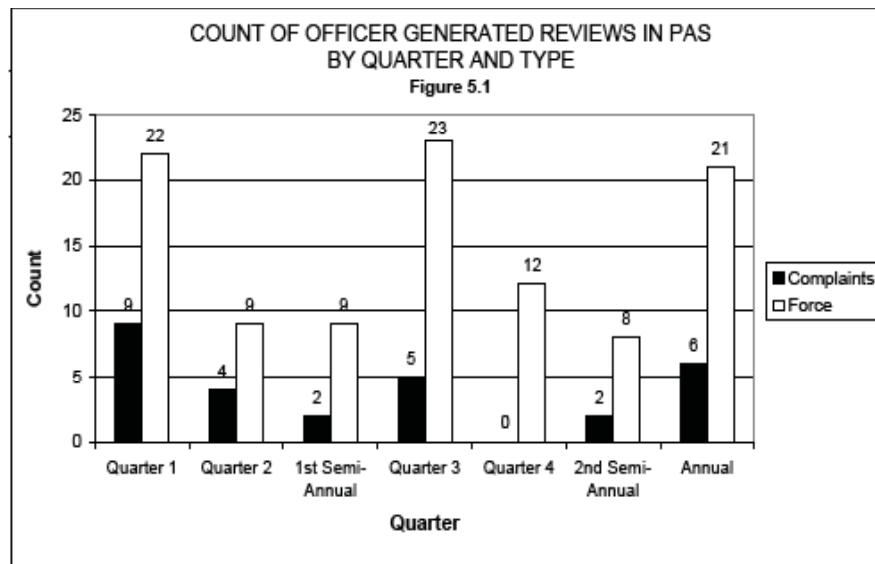
The concept of PAS has changed the manner in which early intervention is used in two significant ways:

First, it includes in the review process a board which consists of every rank from patrol officer through command staff as well a union representative and employee assistance professionals. While the prior system relied on the Chief's Office to identify potential problematic behavior and then notify the officer's command, the new system uses this diverse board to evaluate officer conduct and then report to command staff on any corrective actions that may need to be taken.

Second, as of 2008, the OIM will be providing technical assistance to the staff of the Professional Standards Unit to assist in identifying officers needing further review.

In our 2007 report, the OIM stated that it looked forward to the implementation of the new system in 2007 and conducting regular audits of the system to ensure it is working effectively. As a follow up to that commitment, the Monitor's analyst reviewed the processes used by the Professional Standards Unit and the PAS Board over the course of 2008.

An analysis of the PAS system revealed that it was operating according to policy. In 2008, 77 unique officers generated at least one review through PAS. Figure 5.1 shows the number of officers that generated a review at each quarter, semi-annually, and annually. Officers were more likely to generate a review for use-of-force incidences than they were for complaints.



Officers that generate a review are then subject to a response by the PAS Board. The Board can apply one of four possible response levels:

- **Level Zero – No Action:** A review of data and individual circumstances determines that the officer's performance is not outside the Department's desired range, thus indicating no need for action.
- **Level One – Notification:** A review of data and individual circumstances determines that the officer's performance may be outside the Department's desired range and, if the behaviors are continued, could create risk to the officer or Department. The officer's chain of command is notified for informational purposes, the officer is notified for the purpose of self-evaluation only, and no further action is required.

- **Level Two – Response:** A review of data and individual circumstances determines that either recent performance or a pattern of behavior (including prior PAS activity) may be outside the Department’s desired range or represents a potential risk to the officer or Department. The officer’s chain of command is notified and an informal response plan is established by the officer’s commander and/or immediate supervisor. The supervisor will monitor performance, document actions taken, and progress as set forth in the PAS General Procedures.
- **Level Three – Intervention:** A review of data and individual circumstances determines that either recent performance or a pattern of behavior (including prior PAS activity) may be outside the Department’s desired range, represents a material risk to the officer or Department, or is likely to be or become a disciplinary issue. A formal intervention program is established, including a written plan that describes the mitigation activities and a schedule for implementation. The officer’s chain of command and the Professional Standards Unit must be notified about the plan. The officer’s immediate supervisor will monitor performance, document actions taken and progress as set forth in the PAS General Procedures.

The majority of the response levels that were applied in 2008 were levels one and two. No officers received a level three response.

### ***Sheriff Department Ability To Track Uses Of Force By Its Deputies***

During the course of monitoring Sheriff use-of-force complaint investigations, the Monitor’s Office noted that it was not possible for Internal Affairs personnel to obtain copies of use of force reports by looking up specific officers. In one case, a deputy stated that he used a similar amount of force in a similar incident but was unable to remember when the incident took place. The internal affairs investigator was unable to locate the use of force report because they are not organized or searchable by the name of the involved deputy.

The Police Department database allows for the search of all uses of force by officer. The Monitor’s Office believes that the Sheriff’s Department should create a similar such database to allow for more comprehensive evaluation of a specific deputy’s uses of force and hopes to see such a database implemented in the upcoming year

### ***Police Property Room Camera Views Improved***

The Monitor’s Office thanks the Division Chief of the Technology and Support Division for improving the angles of cameras in the Property Division after it was noted in an internal affairs case that the camera view of officer’s actions in booking property was obstructed. Based on the obstructed view, it was difficult to verify whether a property handling error was the result of an officer’s mistake or a mistake made by a property room clerk. The new vantage points should eliminate any such problems in the future.

### ***Police Department Smoking Policy***

As indicated in the DNC section of this report, the OIM received multiple complaints about the appearance of what was described as a “cigar chomping Sergeant,” making an arrest that was broadcast nationally. In addition to that case, the OIM has also received a number of complaints from community members about DPD officers who were observed smoking cigarettes or cigars while on duty, directing traffic or otherwise being in public view, while in uniform and acting in an official capacity.

The OIM reviewed policies from eleven policing agencies in the Denver metro area, including, six local police departments and five local Sheriff Departments with patrol functions. The policy review revealed that all agencies except for the Thornton Police Department have more restrictive policies regarding the use of tobacco on duty than the Denver Police Department.

Specifically, the Denver and Thornton Police Departments only prohibit officers from smoking in city buildings and vehicles. All other departments reviewed prohibit officers from using tobacco products as follows:

Adams County Sheriff's Office: "Employees on duty will not use tobacco in any form when in contact with the public." (Section 2/203.23).

Arapahoe County Sheriff's Office: "All Arapahoe County Sheriff's Office members will be required to refrain from use of tobacco while on duty, as well as, when in Sheriff's Office vehicles and/or property while on duty." "All members shall not smoke in a public place while wearing a Sheriff's Office uniform." (Adm 316).

Aurora Police Department: "Members will not use tobacco products while in formation, when it would be offensive or inappropriate on an assignment or post, when in violation of the City of Aurora smoking policy, or when engaged in traffic direction or control." (Directive Manual Section 14.3.9).

Boulder County Sheriff Department: "Employees shall not use tobacco of any type when in the presence of private citizens, during information taking functions, in private residences, or where the use of tobacco is not conducive to good officer safety practices." (Policy Manual Section N.2).

Broomfield Police Department: "Employees are restricted from using tobacco in all City and County buildings, while on patrol, while in performance of an official investigation; or at any time while in uniform as a representative of this agency while in direct contact with the public." "Employees shall not use any tobacco product while making personal contacts with citizens in the course of their official duties, such as traffic direction, investigating accidents, or on the scene of a criminal investigation." (Chapter 1, Section 3, Subject 12).

Commerce City Police Department: "Members may use tobacco products on duty under the following circumstances: 1. When leaving their assigned post for the sole purpose of using tobacco does not render them ineffective. 2. They are not inside any City building or City vehicle. 3. They are not in formation. 4. They are not engaged in traffic direction or control. 5. They are not in direct contact with the public." (Section 1.8.5).

Douglas County Sheriff's Office: "Members shall not smoke or use tobacco products on duty while in direct contact with the public." (Section II.V).

Jefferson County Sheriff's Office: "Smoking is not allowed in any Sheriff's Office building, County vehicle, or while in uniform in public view." (Section 1A21).

Littleton Police Department: "Members of the Department may not smoke in or on any City-owned vehicle, nor while engaged in traffic enforcement or direction and control, nor while in direct contact with the public." (Section 3.97.08.04).

Wheat Ridge Police Department: “Tobacco shall not be used in the following circumstances: a. When an officer is in direct contact with a member of the public. b. When in full view of the public (e.g. smoking while directing traffic or spitting from a department vehicle). c. on the scene of a criminal investigation. d. When in a city-owned vehicle. e. When in a tobacco free public area.” (Section 3.38.02)

The Monitor agrees that officers’ smoking on duty and while otherwise serving members of the public does not reflect well on the DPD as an organization. The OIM, therefore, believes that the Denver Police Department should re-evaluate its policies regarding smoking on-duty, while in uniform and while performing the duties of a police officer and consider implementation of one of the aforementioned policies.

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