



DENVER
The Mile High City

Annual Report 2010

Office of the
Independent Monitor

Richard Rosenthal
Independent Monitor



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Table of Contents

	PAGE
Chapter 1: Introduction	
Overview from the Independent Monitor	1 - 3
Core Functions of the Monitor's Office	1 - 3
Status of Goals for 2010	1 - 4
Community-Police Mediation	1 - 6
2010 Outreach	1 - 8
Citizen Oversight Board	1 - 8
Complaint Handling Process	1 - 8
2011 Goals	1 - 9
2011 Budget	1 - 9
A Note Regarding Statistics Published in this Report	1 - 9
Chapter One Endnotes	1-10
Chapter 2: DPD Monitoring	
Internal Affairs Complaints	2 - 3
<i>Complaint Allegations</i>	2 - 4
<i>Complaint Assignments</i>	2 - 5
<i>Complaint Declinations</i>	2 - 5
<i>Complaint Findings</i>	2 - 6
Imposition of Discipline	2 - 7
<i>Definitions of Disciplinary Actions Taken by Police</i>	2 - 7
<i>Discipline Statistics</i>	2 - 7
Cases Involving Dismissal, Resignation, or Substantial Imposition of Discipline	2 - 9
<i>Dismissal</i>	2 - 9
<i>Resignations and Retirements</i>	2 - 9
<i>Substantial Suspensions</i>	2 - 9
Complaint Patterns	2 - 11
<i>Complaints per Officer</i>	2 - 11
<i>Sustained Complaints per Officer</i>	2 - 12
<i>Citizen Complaint Patterns & Demographics</i>	2 - 13
<i>Citizen Complaints by District</i>	2 - 14
Commendations & Awards	2 - 15
Timeliness	
<i>Timeliness in Closing All Citizen-Internal Complaints</i>	2 - 17
<i>Timeliness in Closing Force Complaints</i>	2 - 18
<i>Timeliness in Completing Full Investigations</i>	2 - 19
<i>Number of Cases Pending for More than One Year</i>	2 - 19
<i>Timeliness of Command Reviews</i>	2 - 21
<i>Timeliness of Disciplinary Review Boards</i>	2 - 22
<i>Timeliness of Chief's Hearings</i>	2 - 23
Chapter Two Endnotes	2 - 24

	PAGE
Chapter 3: DSD Monitoring	
Complaints	3 - 3
<i>Complaint Allegations</i>	3 - 3
<i>Findings</i>	3 - 4
Imposition of Discipline	3 - 5
<i>Definitions of Disciplinary Actions taken by Sheriff</i>	3 - 5
Cases Involving Termination, Resignation, or Substantial Discipline	3 - 6
<i>Terminations</i>	3 - 6
<i>Resignations</i>	3 - 6
<i>Substantial Suspension</i>	3 - 6
Complaint Patterns	
<i>Complaints Per Deputy</i>	3 - 7
<i>Sustained Complaints Per Deputy</i>	3 - 7
<i>Citizen Complaint Patterns & Demographics</i>	3 - 8
Commendations and Awards	3 - 9
Timeliness	
<i>Overall Timeliness for Citizen-Internal Complaints</i>	3 - 11
<i>Timeliness of IAB Investigations</i>	3 - 12
<i>Cases Pending for More than One Year</i>	3 - 12
Chapter Three Endnotes	3 - 13
Chapter 4: Critical Incident Review	
Monitor's Critical Incident Roll-Out Protocol	4 - 3
<i>OIM Established Roll-Out Protocol</i>	4 - 3
Officer-Involved Shooting/In-Custody Death Statistics	4 - 4
Summary and Status of 2009 Officer-Involved Shootings, Investigations, and Review Processes	4 - 6
Summary and Status of In-Custody Deaths, Investigations, and Review Processes	4 - 10
<i>In-Custody Death Statistics</i>	4 - 10
<i>In-Custody Death Investigations</i>	4 - 10
<i>2009 In-Custody Death Investigations Completed in 2010</i>	4 - 11
Chapter Four Endnotes	4 - 12
Chapter 5: Special Initiatives and Policy Issues	
Monitor Recommendations Regarding DPD Discipline Process	5 - 3
Media Training Recommendation	5 - 3
Internal Affairs Compliance Investigations	5 - 4
DSD's Ability to Track Deputy Use of Force	5 - 4
Excited Delirium Policy Review	5 - 4
Final Report on DPD Response to PARC Recommendations	5 - 5



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List of Tables and Figures

LIST OF TABLES AND FIGURES

	PAGE	
CHAPTER 1		
Table 1.1	Mediations as a Proportion of Citizen Complaints Received	1 - 6
Table 1.2	Mediation Rates per Officer for 2010	1 - 6
Figure 1.1	Satisfaction by Complaint Handling Type	1 - 7
CHAPTER 2		
Table 2.1	Citizen and Internal Complaints by Year (DPD)	2 - 3
Table 2.2	Complaint Allegations By Year for Citizen/Internal Cases Only	2 - 4
Table 2.3	Citizen and Internal Complaints by Case Assignment (DPD)	2 - 5
Table 2.4	Number of Citizen Complaint Declines by Source and Reason	2 - 5
Table 2.5	Allegation Findings For Formal Investigations by Case Type	2 - 6
Table 2.6	Discipline Imposed on Sustained Complaints Closed in 2010	2 - 7
Table 2.7	Discipline For Sustained Cases by Year	2 - 8
Table 2.8	Number Of Complaints Per Officer and Complaint Type	2 - 11
Table 2.9	Number of Sustained Complaints Per Officer	2 - 12
Table 2.10	Complainant Demographics	2 - 13
Table 2.11	Citizen-Initiated Complaints by District	2 - 14
Table 2.12	DPD Commendations Types and Definitions	2 - 15
Table 2.13	Commendations Received by DPD Employees By Year	2 - 16
Figure 2.1	Overall Timeliness of Complaint Process	2 - 17
Figure 2.2	Timeliness of Force Cases	2 - 18
Figure 2.3	Timeliness of Full Investigations	2 - 19
Figure 2.4	Number of Cases Open Cases Pending for More than One Year	2 - 19

	PAGE	
Figure 2.5	Timeliness of Command Review	2 - 21
Figure 2.6	Timeliness of Disciplinary Review Boards	2 - 22
Figure 2.7	Timeliness of Chief's Hearings	2 - 23

CHAPTER 3

Table 3.1	Complaints Filed by Complaint Source and Year	3 - 3
Table 3.2	Complaint Allegations by Year Received	3 - 3
Table 3.3	Findings for Allegations Closed in 2010	3 - 4
Table 3.4	Findings for Allegations Closed in 2010 by Complaint Source	3 - 4
Table 3.5	Discipline for Sustained Cases by Year Closed	3 - 5
Table 3.6	Number of Complaints per Deputy	3 - 7
Table 3.7	Number of Sustained Complaints per Officer	3 - 7
Table 3.8	Complainant Demographics	3 - 8
Table 3.9	Location of Complaints	3 - 9
Table 3.10	DSD Commendation Types and Definitions	3 - 9
Table 3.11	Commendations Received by DSD Employees and Year	3 - 10
Figure 3.1	Overall Timeliness of Complaint Process	3 - 11

CHAPTER 4

Table 4.1	Officer-Involved Shooting Statistics	4 - 4
Table 4.2	Officer-Involved Shooting by Year and Type	4 - 5
Table 4.3	Officer-Involved Shooting by Suspect Weapon Type and Year	4 - 5
Table 4.4	Officer-Involved Shooting by Outcome and Year	4 - 5
Table 4.5	In-Custody Deaths by Department, Type, and Year	4 - 10



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Chapter 1

Introduction

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 Research Analyst, an Office Manager, and a Community Relations Ombudsman. Unfortunately 2010 budget cuts resulted in the reduction of the Ombudsman to a half-time position.

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 the complaint handling and disciplinary processes; 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 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" include:

- Monitoring and reviewing DPD and DSD critical incident investigations, specifically officer-involved shootings, in-custody deaths and uses of force resulting in serious bodily injury or death. This task includes the monitoring of the deliberations and recommendations of Use-of-Force Review Boards and Tactics Review Boards;
- 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 complaint handling and disciplinary processes for DPD and DSD; and,
- Issuing Quarterly Discipline and Progress Reports and an Annual Report to the public.

Status of Goals for 2010

At the beginning of 2010, 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 1

Follow up on the implementation of Police Department policy changes to deadly force and less-lethal policies as recommended by the Police Assessment Resource Center (PARC) report and accepted by the Chief of Police.

Status of Goal 1

The PARC report was published and made available to the public in June of 2008. The PARC report found that the Denver Police Department was a leader in the handling of deadly force incidents. The PARC report also made 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. In 2009, the Department finalized substantial changes in its deadly force and less-lethal policies as recommended by PARC. In 2010, the Department finalized changes to its use of force policies: banning future use of the "sap" as an impact weapon, finalizing changes to its use of tasers (including updated training for officers on the policy changes) and updating its canine policy. The Monitor believes that the Department has worked in good faith to implement the changes, recommended by both PARC and the Monitor, that are best suited to the Department and the needs of the City and the local community. This goal is considered to be completed at this time. (See Chapter 5 for more detailed information).

Goal 2

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

Status of Goal 2

As of the end of 2010, the OIM Mediation program has facilitated more than 230 mediations since the mediation program's inception in December of 2005.¹ A total of 41 community-police mediations were conducted during the 2010 calendar year (39 DPD cases and 2 DSD cases).

In 2010, the Monitor made a presentation on Denver's community-police mediation program to a national audience for the Public Agency Training Council (PATC). The Monitor was subsequently contacted by municipalities both inside and outside of Colorado asking for assistance in setting up similar programs.

Goal 3

Conduct annual evaluations of the DPD Personnel Assessment System (PAS) to ensure effective evaluations of similarly situated officers. PAS is an early intervention tool which identifies patterns in officer conduct and assists in identifying performance concerns relating to individual officers.

Status of Goal 3

The DPD finalized its new Personnel Assessment System (PAS) in early 2008. During 2010, the OIM's new Senior Research Analyst began working with the Department's Professional Standards Unit (PSU) to review the Department's use of the PAS and determine whether a more sophisticated comparison of similarly situated officers is possible. That work will continue into 2011 when the OIM plans to conduct a comprehensive evaluation of the Department's use of this system.

Goal 4

Ensure the implementation of the Denver Sheriff Department's new disciplinary matrix, reforms to the disciplinary processes, and the creation of an early intervention system.

Status of Goal 4

As of January 1, 2011, the disciplinary matrix has been adopted by the Denver Sheriff Department. During the course of 2010, the Monitor chaired subcommittees for the Manager of Safety's Disciplinary Advisory Group and assisted in the creation of updated *Rules & Regulations*, the discipline matrix, and the new Discipline Handbook for the Sheriff Department.

Goal 5

Improve the timeliness of imposition of discipline for the DPD in all cases where DPD or the Manager of Safety has found that an officer violated a DPD rule or policy.

Status of Goal 5

As noted in Chapter 2, timeliness in the imposition of discipline for the DPD continues to be a challenge. The Monitor is recommending in Chapter 5 of this report that the DPD create a working group to evaluate the Department's overall disciplinary process. It is hoped that a re-evaluation of the process in its entirety may lead to suggestions which could reduce the time it takes to impose discipline, overall.

Goal 6

Evaluate the DPD's policies, training, and practices with respect to responding to "excited delirium" type cases, specifically those resulting in in-custody deaths, and make recommendations for improvements as necessary.

Status of Goal 6

In November of 2010, the Monitor's Office and the DPD funded the attendance of a multi-agency team at the "2010 Sudden Death, Excited Delirium and In-Custody Death Conference," a national seminar organized by the "Institute for the Prevention of In-Custody Deaths." Representatives of the Police and Sheriff Departments, the OIM, Denver Health, and the Combined Communications Center attended the conference and will participate in a workgroup in 2011 to draft updated policies and procedures to ensure a comprehensive multi-agency response to these types of critical incidents.

The Community-Police Mediation Program

The number of cases involving completed mediations dropped this year from prior years. This decline can be attributed to the resignation of the OIM's full-time Community Relations Ombudsman and her replacement, two months later, with a part-time Ombudsman. This position was primarily responsible for the management of the mediation program. As a result of the staff reduction and process changes, there was a decline in the number of mediations completed in 2010 as compared to previous years.

Even with the decline, this program continues to be one of the largest in the United States, as shown in Table 1.2.

Table 1.1
Completed DPD Citizen-Police Mediations as a Proportion of Citizen Complaints Received

Year	Mediations Completed	Citizen Complaints Received	% Total
2006	40	602	6.6%
2007	54	653	8.3%
2008	43	581	7.4%
2009	55	617	8.9%
2010	39	601	6.5%

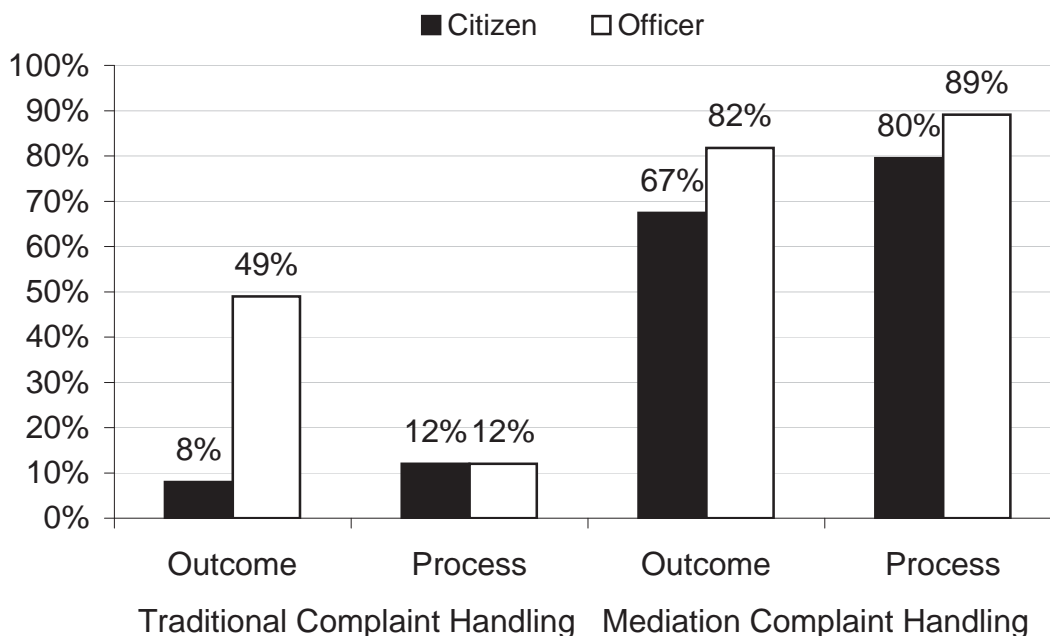
Table 1.2
Mediation Rates Per Officer for U.S. Municipal Police Departments Conducting 10 or More Mediations in 2010 ²

Department	Agency	Number of Sworn Officers	Cases Mediated	Mediation Rate per 1,000 Officers
New York City Police Department, NY	Civilian Complaint Review Board	34,500	167	4.8
San Francisco Police Department, CA	Office of Citizen Complaints	2,235	63	28.2
Denver Police Department, CO	Office of the Independent Monitor	1,461	39	26.7
Washington D.C. Metropolitan Police Department	Office of Police Complaints	3,964	37	9.3
Seattle Police Department, WA	Office of Professional Accountability	1,328	26	19.6
Kansas City Police Department, MO	Office of the Independent Monitor	1,404	15	10.7
Portland Police Bureau, OR	Independent Police Review Division	952	11	11.6
Minneapolis Police Department, MN	Civilian Police Review Authority	864	10	11.6
Aurora Police Department, CO ³	Community Mediation Concepts	645	10	15.5

Both complainant and officer satisfaction with the mediation process and subsequent outcomes remained high throughout the 2010 calendar year. Also, both complainant and officer satisfaction levels remain higher than satisfaction levels associated with the traditional Internal Affairs processes and subsequent outcomes. (See Figure 1.1)

For more information on the mediation program, go to the OIM website (www.denvergov.org/oim) and click on the “Mediation” tab. This portion of the OIM website includes mediation program protocols and guidelines as well as links to articles about the OIM mediation program published by “Police Chief Magazine” and the Community Oriented Policing Section (COPS) of the United States Department of Justice.

Figure 1.1
Percent Satisfied with Outcome and Process by Complaint Handling Type⁴



2010 Outreach

The OIM ensures that citizens can make police 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.

The Monitor's ability to conduct proactive community outreach was negatively impacted in 2010 due to a budget cut which resulted in the reduction of the Community Relations Ombudsman to a part-time position. As such, community outreach is now more reactive, with the Monitor responding to requests to attend community meetings as opposed to making overtures towards community groups.

Citizen Oversight Board

The Citizen Oversight Board (COB) holds regularly scheduled meetings open to the public. Times and locations for quarterly public meetings held by the COB in 2010 can be found in Appendix B of this report, located online at www.denvergov.org/oim. For 2011 locations, see the COB website, located at www.denvergov.org/cob for information. Times and/or locations are, of course, subject to change.

The Monitor meets regularly with the Citizen Oversight Board (usually on the first and third Fridays of each month) to ensure the COB has the information it needs to adequately assess the effectiveness of the Monitor's Office, as required by City Ordinance.

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 C of this report, which can be found online at www.denvergov.org/oim.

2011 Goals

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

- Continue the use of the OIM community-police mediation program, and assist other police agencies in implementing similar programs;
- Evaluate the DPD Personnel Assessment System to ensure effective evaluations of similarly situated officers;
- Monitor the implementation of the Denver Sheriff Department's new disciplinary matrix, reforms to the disciplinary processes, and the creation of an early intervention system;
- Improve the timeliness of imposition of discipline for the DPD in all cases where a sustained finding is made;
- Evaluate policies, training, and practices with respect to responding to "excited delirium" type cases, specifically those resulting in in-custody deaths and make recommendations for improvements as necessary; and
- Assist the Manager of Safety in the creation of a Disciplinary Matrix for the Denver Fire Department.

2010 Budget

General budget information for 2010 can be found in Appendix D of this report, online at www.denvergov.org/oim.

A Note Regarding Statistics Published in this Report

Statistics published in this report were obtained from the Police and Sheriff Internal Affairs databases. Since these are live, dynamic databases, all figures reported in this report are subject to revision. Due to resource limitations, the OIM does not conduct governmentally approved audits of the databases for accuracy. 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. Finally, because the Internal Affairs command staff for the DPD and DSD are the final arbiters of what allegations to place in their databases and against which officers, the OIM cannot certify that the data presented (with respect to specific complaint allegations) is as it would be if the OIM were making those decisions.

Chapter One Endnotes

- ¹ These numbers include both Police and Sheriff Department mediations and include some employee-on-employee complaints.
- ² Washington D.C.'s Office of Police Complaints mediation counts are for the fiscal year October 1, 2009 to September 30, 2010. All other figures are based on the 2010 calendar year.
- ³ The OIM was pleased to see the Aurora Police Department as a recent addition to those police agencies mediating ten or more citizen complaints in 2010. In 2009, the Monitor provided technical assistance to the Aurora PD to assist them in the creation of their mediation program.
- ⁴ The satisfaction figures for the "Traditional Complaint Handling" process are drawn from citizen/police satisfaction surveys administered in 2005, 2006, 2007.



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Chapter 2

DPD Monitoring

Internal Affairs Complaints

In 2010, the Denver Police Department Internal Affairs Bureau handled 713 citizen and internal complaints of which 84% involved citizen complaints (Table 2.1).¹ The number of citizen complaints received declined slightly between 2009 and 2010. It is important to note that only a small proportion of citizen-police contacts in 2010 result in a citizen complaint. For example, Denver Police officers responded to 465,511 calls for service in 2010.² In the same time period, the DPD received 601 citizen complaints against its officers, which amounts to a conservative estimate of roughly one complaint for every 775 calls for service (or .013%).

Table 2.1 Citizen and Internal Complaints by Year Received (DPD 2010)

Complaint Type	2006	2007	2008	2009	2010
Citizen Complaint	602	653	581	617	601
column %	84%	85%	86%	82%	84%
Internal Complaint	112	119	93	132	112
column %	16%	15%	14%	18%	16%
Total	714	772	674	749	713

Complaint Allegations

Table 2.2 provides the most frequent complaint allegations received by DPD from 2006 through 2010. These allegations are only for citizen and internally-initiated complaints. In reviewing these figures, it is important to note that each complaint can have multiple allegations.³ Thus, the number of allegations for any given year will always be greater than the number of complaints received in that year.

The number of allegations for citizen/internal complaints decreased from 1,357 in 2009 to 1,293 in 2010. While there was little overall change in the pattern of allegations received between 2010 and previous years, there was a decline in both the number and proportion of inappropriate/unnecessary force allegations and allegations of “Discrimination, Harassment and Retaliation” received between 2009 and 2010. In addition, there was a noticeable increase in the number of allegations classified as “Responsibilities to Serve the Public” (from 19 in 2008 to 142 in 2009 to 239 in 2010). While dramatic, this appears to be the result of changes in the allegation classification practices of Internal Affairs staff rather than a substantive shift in the types of allegations reported by citizens. So, for example, it appears that some allegations that would have been previously grouped into vague categories such as “Improper Procedure-Other” and “Other” are now being classified as “Responsibilities to Serve the Public.”

**Table 2.2 Most Common Allegations for Citizen and Internal Complaints
by Year Received (DPD 2010)**

Allegation	2006	2007	2008	2009	2010
Discourtesy	302	312	262	294	284
column %	26%	25%	22%	22%	22%
Responsibilities To Serve The Public	12	19	19	142	239
column %	1%	2%	2%	10%	18%
Inappropriate/Unnecessary Force	198	236	233	296	233
column %	17%	19%	20%	22%	18%
Improper Procedure - Other	296	299	246	265	218
column %	25%	24%	21%	20%	17%
Conduct Prejudicial	45	42	89	46	45
column %	4%	3%	8%	3%	3%
Giving Name and Badge Number	28	24	24	31	35
column %	2%	2%	2%	2%	3%
Failure to Make or File Reports	31	38	26	29	30
column %	3%	3%	2%	2%	2%
Impartial Attitude	10	53	42	38	28
column %	1%	4%	4%	3%	2%
Discrimination, Harassment, & Retaliation	24	13	21	56	28
column %	2%	1%	2%	4%	2%
Law Violation-Other	24	17	24	14	24
column %	2%	1%	2%	1%	2%
Other	203	181	178	146	129
column %	17%	15%	15%	11%	10%
Total	1173	1234	1164	1357	1293

Complaint Assignments

Complaints are assigned by the Internal Affairs Bureau command staff as either “formals” (warranting a full formal investigation), “informals” (warranting debriefing and/or counseling between the involved officer(s) and his/her/their supervisor), “declines” (no

further review or investigation warranted), or a “service complaint” (a complaint regarding a specific policy or procedure). Table 2.3 shows that the most common assignment for citizen-initiated complaints, representing 75% of the complaints, were “declines.” The majority of internally-initiated complaint allegations were categorized as “formal” complaints (71%).

Table 2.3 Case Assignment Decisions for Citizen and Internal Complaints Received in 2010

	Decline	Formal	Informal	Service Complaint	Total
Citizen Complaint	453	64	77	7	601
row %	75%	11%	13%	1%	100%
Internal Complaint	18	80	13	1	112
row %	16%	71%	12%	1%	100%
Total	471	144	90	8	713

Complaint Declinations

“No misconduct” was the most frequently cited reason for declining citizen/internal complaints, as shown in Table 2.4, followed by “mediation,” and “complainant withdrawals.”

Table 2.4 Number of Citizen and Internal Complaints Declined by Source and Reason (DPD 2010)

Decline Reason	IAB	Monitor	Station	Total
No Misconduct	259	5	30	294
column %	64%	14%	97%	62%
Assigned for Mediation	40	5	0	45
column %	10%	14%	0%	10%
Complainant Withdrew-Mediation	13	22	0	35
column %	3%	61%	0%	7%
Complainant Withdrew-Non-Mediation	41	1	0	42
column %	10%	3%	0%	9%
Judicial/Remedy	27	1	0	28
column %	7%	3%	0%	6%
Untimely	7	1	1	9
column %	2%	3%	3%	2%
Unable to ID Officer	8	0	0	8
column %	2%	0%	0%	2%
No Jurisdiction	7	0	0	7
column %	2%	0%	0%	1%
Third Party	1	1	0	2
column %	0%	3%	0%	0%
False/Trivial	1	0	0	1
column %	0%	0%	0%	0%
Total	404	36	31	471

Complaint Findings on Formal Cases

Table 2.5 provides the allegation findings for citizen and internal complaints subjected to a formal investigation and closed in 2010. Approximately 46% of internal complaint allegations that were fully investigated were sustained, while 39% of citizen-initiated complaint allegations that had a full investigation were sustained.

Table 2.5 Allegation Findings for Formal Investigations of Citizen and Internal Complaints Closed in 2010.

Findings	Citizen Complaint	Internal Complaint	Total
Sustained	55	68	123
column %	39%	46%	43%
Not Sustained	39	35	74
column %	28%	24%	26%
Exonerated	16	23	39
column %	11%	16%	13%
Unfounded	27	6	33
column %	19%	4%	11%
Not Reviewed	4	16	20
column %	3%	11%	7%
Total	141	148	289

Imposition of Discipline

Definitions of Disciplinary Actions Taken by the Police Department

A *reprimand* can be either oral (also known as “verbal”) or written and 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 2010. Since officers can have multiple allegations leveled against them, the table reports both the number of allegations that resulted in a specific type of discipline and the number of officers that received that discipline. Note that the number of allegations can be larger than the number of officers.

The most frequent type of discipline imposed against Denver police officers in 2010 for citizen/internal complaints was a written reprimand (37 officers) followed by fined time (29 officers). Three officers were terminated in 2010 as a result of one citizen/internal complaint.

Table 2.6 Discipline Imposed on Sustained Complaints Closed in 2010

Discipline Type	Citizen/Internal	
	Officers	Allegations
Termination	3	27
Resigned/Retired Prior to Discipline	3	5
Suspension Without Pay	12	16
Fined Time	29	31
Written Reprimand	37	37
Oral Reprimand	12	12

Table 2.7 Comparing Discipline Imposed on Officers for Citizen and Internal Complaints by Year Closed (DPD 2010)

Discipline Type	2007	2008	2009	2010
Termination	1	1	1	3
column %	1%	1%	1%	3%
Resigned/Retired Prior to Discipline	6	7	7	3
column %	5%	7%	6%	3%
Demotion	0	0	1	0
column %	0%	0%	1%	0%
Suspension Without Pay	11	9	17	12
column %	10%	9%	14%	13%
Fined Time	16	16	31	29
column %	14%	17%	25%	30%
Written Reprimand	37	40	38	37
column %	33%	42%	31%	39%
Oral Reprimand	42	23	28	12
column %	37%	24%	23%	13%
Total	113	96	123	96

There have been several gradual shifts over the last four years in the pattern of discipline imposed on officers for citizen/internal complaints. For example, the number of officers receiving an oral reprimand has declined steadily between 2007 and 2010 while the number of officers receiving fined time has gradually increased. On October 1, 2008, the DPD adopted a new disciplinary matrix which may have influenced the above-noted patterns. However, the number of officers receiving written reprimands and suspended time has remained relatively stable for the last four years.

Cases Involving Dismissal, Resignation, or Substantial Imposition of Discipline

During the course of 2010, three officers were terminated by the Manager of Safety. Another three officers resigned or retired while serious allegations against them were pending investigation or adjudication by the Department. Another twelve officers were suspended without pay. In comparison, in 2009, one officer was terminated, one officer was demoted, seven officers resigned or retired while serious allegations against them were pending and seventeen officers were suspended without pay.

Dismissals

- Three officers were terminated after a juvenile suspect was beaten at the conclusion of a foot pursuit. The Manager of Safety concluded that one officer engaged in a criminal assault by stomping the suspect and that the two other officers used unnecessary force, as well. The Manager also concluded that all three officers made false statements at the criminal trial of the officer who was charged with criminal assault and to Internal Affairs.

Resignation/Retirement (Serious Allegations Pending, But No Disciplinary Order Issued)

- A Detective resigned after having been arrested and convicted of shoplifting and after having been accused of providing false identification information to store security.
- An officer resigned after having been convicted of misdemeanor menacing and after having been accused of being under the influence of alcohol while on duty.
- An officer resigned after admitting to have stolen a taser-type weapon from a citizen during a traffic stop.

Substantial Suspensions Without Pay (10 or more Calendar Days)

- An officer received a 60-day suspension for driving under the influence of alcohol (off-duty), unlawful possession of a firearm while intoxicated, and attempting to improperly influence the arresting officer based on the officer's professional status.
- An officer received a 90-day suspension (with 45 days held in abeyance pending no further misconduct by the officer) for lying during the course of an investigation into the officer having missed a court appearance.
- An officer received a 52-day suspension for initiating an out-of-policy vehicle pursuit, which resulted in three traffic collisions and injury to innocent persons, and for making a false statement to another agency at the conclusion of the pursuit.
- An officer received a 45-day suspension (with termination held in abeyance) for making threatening statements against another officer.
- An officer received a 42-day suspension for participating in an out-of-policy vehicle pursuit which resulted in three traffic collisions and injury to innocent persons and for failing to notify dispatch of the pursuit.
- An officer received a 10-day suspension for covering other officers during a dangerous out-of-policy vehicle pursuit and for failing to notify dispatch of the pursuit.
- An officer received a 10-day suspension for failing to call out mileage or notify dispatch regarding a contact with a suspected prostitute, which resulted in an allegation of attempted sexual assault.

Complaint Patterns

Complaints Per Officer

Table 2.8 shows the number of complaints lodged against DPD officers in 2010. This table includes all citizen and internal complaints (regardless of finding), but excludes scheduled discipline.

In 2010, 58% of the total number of DPD officers (n = 1,461) were not the subject of a single citizen or internal complaint. Of the officers that received one or more complaints in 2008, 26% received only one complaint. Less than 1% of DPD officers had six or more complaints filed against them in 2010.

In relation to specific kinds of complaints, roughly 10% of DPD officers received one unnecessary/inappropriate force-related complaint in 2010 while about 2% received two or more force complaints. Roughly 15% of DPD officers had one or more discourtesy complaints.

**Table 2.8 Number of Citizen/Internal Complaints Received in 2010
by Officer and Complaint Type**

Complaints	All Citizen/ Internal	Force	Discourtesy	Responsibility to Serve the Public
Zero	850	1279	1244	1262
column %	58%	88%	85%	86%
One	377	149	172	172
column %	26%	10%	12%	12%
Two	148	27	32	24
column %	10%	2%	2%	2%
Three	50	4	11	1
column %	3%	0%	1%	0%
Four	20	1	2	2
column %	1%	0%	0%	0%
Five	6	0	0	0
column %	0%	0%	0%	0%
Six or More	10	1	0	0
column %	1%	0%	0%	0%
Total	1461	1461	1461	1461

Table 2.9 Number of Officers with One or More Sustained Citizen/Internal Complaints Closed in 2010

Sustained Complaints	Officers with Sustained Complaints	Percent
Zero	1379	94.4%
One	78	5.3%
Two	4	0.3%
Three or More	0	0.0%
Total	1461	100.0%

Table 2.9 reports the number of officers that had one or more sustained complaints in 2010. Only a relatively small proportion of DPD officers had one complaint sustained in 2010 (5.3%) and no officers had more than two complaints sustained in one year. Officers receiving more complaints than other similarly situated officers are identified for further review by the Department’s early intervention system (called the Personnel Assessment System or PAS). 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 and community needs and expectations.

Citizen Complaint Patterns

As required by ordinance, the 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 2010 predominantly filed only one complaint (97%) while 16 complainants (2%) filed two complaints. Three complainants filed four or more 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 2010 are presented in Table 2.10. As shown, 674 unique complainants accounted for 601 citizen complaints (note that a single complaint can be associated with multiple complainants). Complainants that filed multiple complaints were counted only once in this table. The percent column includes percentages of the missing values while the valid percent column excludes the missing values.

Table 2.10 Complainant Demographic Characteristics (DPD 2010)

Gender	Number	Percent	Valid Percent
Male	387	57%	58%
Female	275	41%	42%
Missing	12	2%	
Total	674	100%	100%

Race/Ethnicity	Number	Percent	Valid Percent
American Indian	4	1%	1%
Asian/Pacific Islander	8	1%	2%
Black	127	19%	27%
Hispanic	89	13%	19%
White	237	35%	51%
Unknown	89	13%	
Missing	120	18%	
Total	674	100%	100%

Age	Number	Percent	Valid Percent
18 and Younger	19	3%	3%
19-24	57	8%	10%
25-30	94	14%	16%
31-40	171	25%	30%
41-50	134	20%	23%
51+	102	15%	18%
Missing	97	14%	
Total	674	100%	100%

Citizen Complaints by District

Table 2.11 illustrates the number of citizen-initiated complaints by district.

Police District Six accounted for 34.4% of the total citizen-initiated complaints, while the airport (DIA) had the smallest percentage (6.2%) of citizen-initiated complaints. The pattern for force-related complaints was similar with District Six having the largest number of force complaints and DIA having the fewest.

It should be noted that District Six would be expected to have (and has traditionally had) the largest number of complaints per year. This pattern is likely due to the high concentration of restaurants, bars, and other entertainment venues (LoDo) that draw a substantial number of non-residents to downtown area.

Table 2.11 Citizen-Initiated Complaints by District (DPD 2010)⁴

District	All Citizen Complaints	Percent All Complaints	Force Complaints	Percent Citizen Force Complaints
1 -- Northwest	53	9%	13	10%
2 -- Northcentral	64	11%	14	11%
3 -- Southeast	80	13%	12	9%
4 -- Southwest	94	16%	27	21%
5 -- Northeast	38	6%	8	6%
6 -- Downtown	207	34%	51	39%
7 -- Airport	37	6%	4	3%
Unknown	28	5%	1	1%
Total	601	100%	130	100%

Commendations & Awards

In the interest of providing a 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 service provided to the community and the Department. Table 2.12 provides definitions for the different types of commendations and awards currently used by the Denver Police Department.

Table 2.12 DPD Commendation Types and Description

Commendation Type	Description
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.

Table 2.13 shows the number of commendations and awards received by DPD employees from 2007 through 2010. There were 773 commendations and awards received by DPD employees in 2010. A detailed description of awards granted by the DPD during the course of 2010 can be found in Appendix E of this report at www.denvergov.org/oim [reports- annual reports - 2010 annual report appendix].

Official Commendations were the most frequent type of commendation received accounting for 37% of the total. Other frequent commendations included commendations filed through the Commendation/Complaint Hotline (21.7%), STAR Awards (8%) and Citizen Letters of Appreciation (8%).

Table 2.13 Commendations Received by DPD Employees by Year (DPD 2010)⁵

Commendations	2007	2008	2009	2010
Citizen Letter of Appreciation	104	112	70	63
column %	13%	10%	8%	8%
Citizens Appreciate Police Award	2	11	16	13
column %	0%	1%	2%	2%
Commendation/Complaint Hotline	175	162	181	182
column %	21%	14%	20%	24%
Commendatory Letter	88	85	62	55
column %	11%	8%	7%	7%
Community Service Award	4	8	10	1
column %	0%	1%	1%	0%
Department Service Award	0	5	4	25
column %	0%	0%	0%	3%
Distinguished Service Cross	13	23	11	7
column %	2%	2%	1%	1%
Leadership Award	0	0	1	7
column %	0%	0%	0%	1%
Life Saving Award	24	32	25	18
column %	3%	3%	3%	2%
Medal of Honor	2	7	0	1
column %	0%	1%	0%	0%
Medal of Valor	5	10	3	2
column %	1%	1%	0%	0%
Merit Award	59	73	59	31
column %	7%	6%	7%	4%
Official Commendation	201	499	331	289
column %	25%	44%	37%	37%
Purple Heart	4	1	2	4
column %	0%	0%	0%	1%
STAR Award	62	41	65	64
column %	8%	4%	7%	8%
Unit Citation	74	60	39	11
column %	9%	5%	4%	1%
Unknown	1	2	8	0
column %	0%	0%	1%	0%
Total	818	1131	887	773

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. As a result, the Monitor established timeliness goals in 2006 for the handling of complaints.

Figure 2.1 reports on the first timeliness goal, which is to close 95% of all complaints within 150 days. The bars in this figure represent the percentage of cases that were closed within 150 days of the date they were received. The lines represent the average overall age of cases received in those years.

In 2010, on average, citizen-initiated complaints were closed within 62 days of the complaint having been received by the Police Department or the Monitor's Office, which is an incremental improvement over previous years. Altogether, 91% of cases received in 2010 were closed within 150 days, which is similar to previous years (but still below the goal of 95%).

Figure 2.1
Performance Goal for Closing All Citizen-Internal Complaints⁶
Goal: Complete 95% of All Complaints within 150 Days

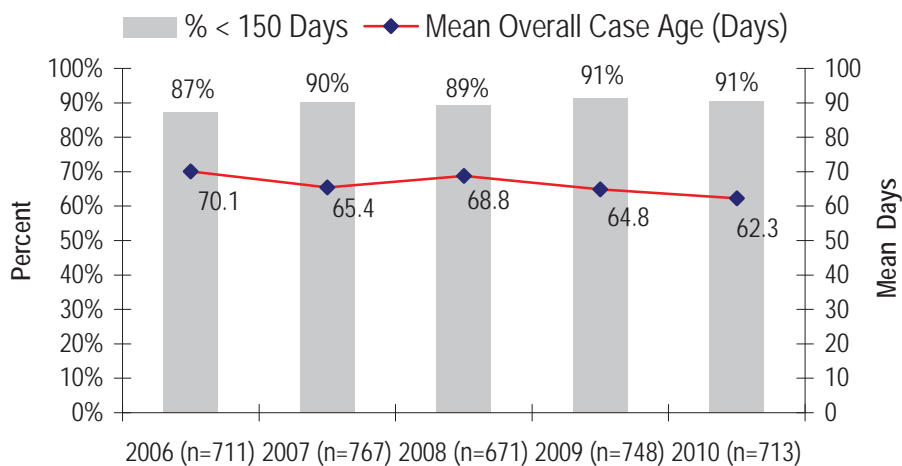
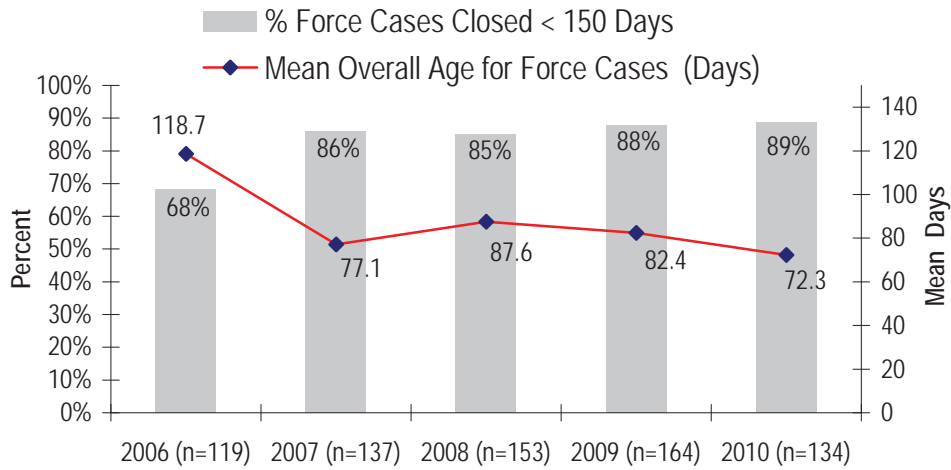


Figure 2.2
FORCE COMPLAINTS ONLY
Performance Goal for Closing Force Complaints⁷
Goal: Complete 95% of All Complaints within 150 Days



In order to examine timeliness in the handling of force-related complaints, Figure 2.2 reports the proportion of force-related complaints closed within 150 days (which is represented by the gray bars). This figure also reports the average overall age of force-related cases received in those years (which is represented by the line).

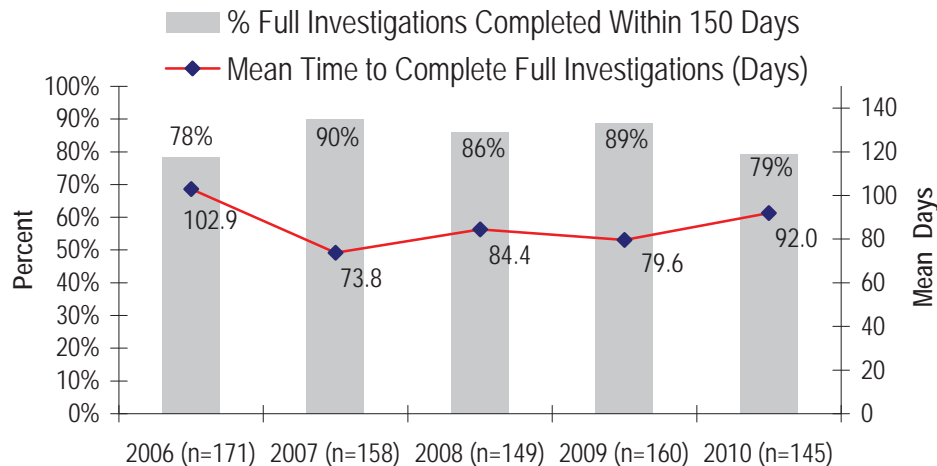
There has been a noticeable improvement in the average overall age of force complaints. For example, the average age of force complaints was 72 days in 2010, down from an average of 119 days in 2006. Similarly, 89% of the force complaints received in 2010 were closed within 150 days, which is sharp improvement over the 68% observed in 2006 (but similar to the DPD’s 2009 performance).

It is likely that the timeliness of the Department in this area is affected by the percentage of citizen complaints that were “declined” by Internal Affairs during the course of the year. Specifically the two years in which force complaints were closed in the most timely manner (2007 & 2010) also had the largest percentage of citizen complaints declined (72% in 2007 and 2010). In contrast, 60% of citizen complaints were declined in 2006, 67% were declined in 2008 and 70% were declined in 2009.

Timeliness Issues Regarding IAB Investigations and Findings on Citizen/Internal Complaints

In relation to investigations, the Monitor and IAB established a timeliness goal for completing 95% of full investigations within 150 days. In 2010, 79% of full investigations met that goal, which is a decline from 2009, where 89% of investigations were completed in less than 150 days.

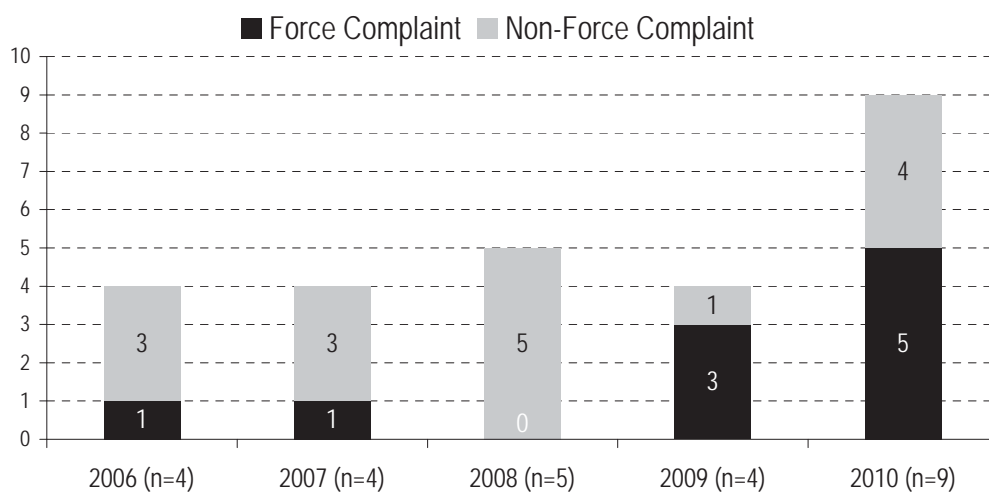
Figure 2.3
Performance Goal for Completing Full Investigations⁸
Goal: Complete 95% of Full Investigations within 150 Days



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 is imposed. A goal of the OIM program has been to shorten the duration for all cases except the most complex and serious and those which involve exceptional circumstances.

There were nine police internal affairs cases still open that were over one-year-old as of December 31, 2010. As of the end of 2009, there had been three internal affairs cases still open that were over one year old. Two of those cases were resolved during the course of 2010.

Figure 2.4
Number and Type of OPEN Citizen-Internal Complaints More than a Year Old at the End of Each Calendar Year, 2006-2010



Descriptions of Denver Police Department Cases Over One Year Old as of December 31, 2010

Case #1: Opened October 2006. Case involves allegations of domestic violence, driving under the influence of alcohol and unlawful possession of a weapon. The investigation was delayed due to the subject officer being off work on long-term military leave. The subject officer was finally interviewed in October 2010. The investigation, however, still had not been completed as of the end of the calendar year. The officer remains on military leave. (This case has not been reported as an “old case” in prior Annual Reports as it was originally closed-out in the IAB database when the officer left the Department on leave.)

Case #2: Opened December 2008. Case involves allegations of unnecessary force and commission of deceptive acts. The investigation took four months to complete. The command review process took more than six months to complete and involved several requests for further investigation from the Monitor’s Office. The case was submitted to the Manager of Safety (MOS) for his review in early December 2009. The MOS was unable to make a disciplinary decision as of his retirement on July 30, 2010. The new MOS issued discipline shortly after taking office and the disciplinary decision was appealed by the officer to the Civil Service Commission. The MOS subsequently rescinded the disciplinary decision. Additional investigation was conducted after the discipline was rescinded. The case was closed in January 2011 after the City’s request to dismiss the officer’s Civil Service appeal was denied.

Case #3: Opened January 2009. Case involves allegations of unnecessary force and inaccurate reporting. The case was originally declined by Internal Affairs but was re-opened after criminal charges against the complainant were dismissed by the District Attorney’s Office. The case was pending further investigation as of the end of the calendar year.

Case #4: Opened April 2009. Case involves allegations of unnecessary force and commission of deceptive acts. The investigation took seven months to complete and involved several requests for further investigation from the Monitor’s Office. The command review process took more than four months to complete. The MOS issued discipline, but then rescinded the disciplinary decision. Additional investigation was conducted after the discipline was rescinded. The follow-up investigation was submitted for command review in early January 2011.

Case #5: Opened June 2009: Case involves allegations of off-duty brandishing of a firearm. The subject officer was criminally charged, resulting in a delay in conducting the investigation, and subsequently acquitted in April 2010. The investigation was completed in October 2010. The case was still pending command review at the end of the calendar year.

Case #6: Opened July 2009: Case involves allegations of excessive force and commission of deceptive acts. The investigation took seven months to complete and involved several requests for further investigation from the Monitor’s Office. The command review process initially took two months to complete. The case was set for a Disciplinary Review Board in August 2010, but was withdrawn in favor of additional investigation and command review which was completed in January 2011. As of the writing of this report, the case is still pending the scheduling of a Disciplinary Review Board.

Case #7: Opened August 2009: Case involves an allegation of allowing a DUI driver to continue to drive. Command review has been on hold pending the disposition of another case against the subject officer.

Case #8: Opened September 2009: Case involves an allegation of excessive force. Command review has been on hold pending the disposition of another case against the subject officer.

Case #9: Opened December 2009: Case involves an allegation of unlawful possession of a firearm while intoxicated. The administrative investigation was put on hold until the disposition of criminal charges filed against the subject officer (relating to the incident) was resolved by a dismissal of said charges in January 2011.

Timeliness Issues Regarding Command Review of Complaints

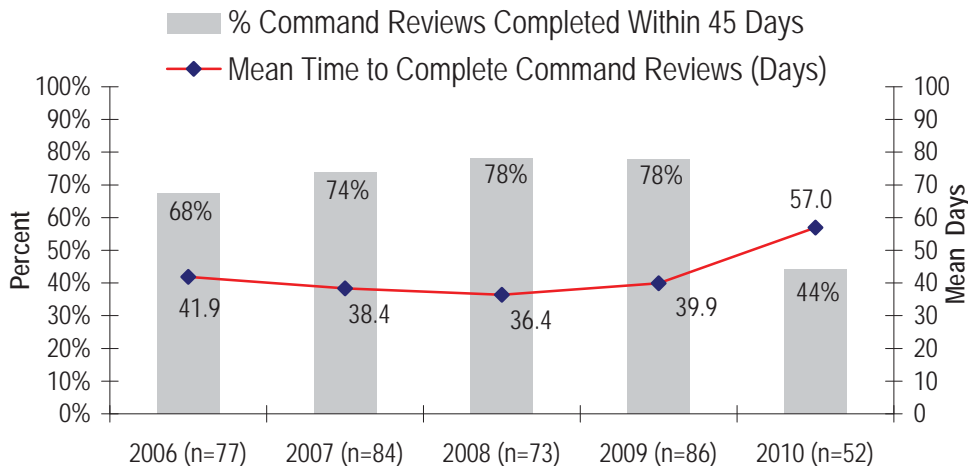
In last two year's annual reports, the Monitor identified specific timeliness problems as they related to:

1. Police Department "command reviews" (the period necessary for a DPD Commander and a 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, where ordered by the Chief's Office or 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 or his Deputy Chiefs, giving the subject officer(s) an opportunity to present evidence which is intended to explain, mitigate, or excuse the conduct of the officer).

Timeliness of Command Reviews

In our 2009 Annual Report, the Monitor expressed hope that the DPD would continue to see improvements in the timeliness of the command review process in 2010. Unfortunately, the timeliness of command reviews dropped precipitously in 2010. Only 44% of the cases that became eligible for command review in 2010 met the previously established timeliness goal of completing all reviews within 45 days.

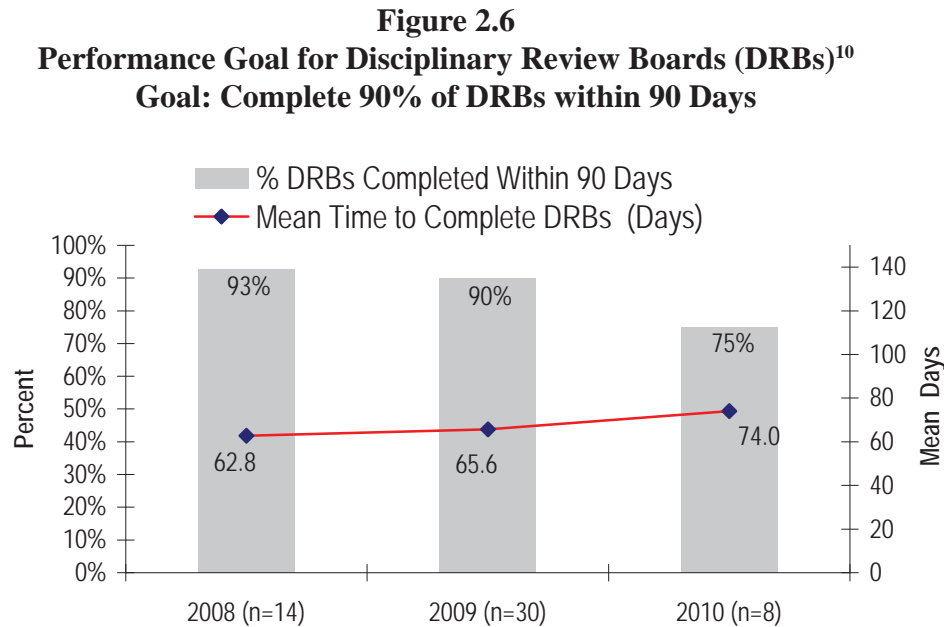
Figure 2.5
Performance Goal for Completing Command Review⁹
Goal: Complete 100% of Command Reviews within 45 Days



Timeliness of Disciplinary Review Boards

In 2008, the OIM reported that the amount of time it took the Department to impose discipline in cases involving Disciplinary Review Boards (DRBs) substantially improved, but still hoped to see further improvements in 2010. In fact, since 2008, the timeliness in the scheduling of DRB's has continued to decline.

Figure 2.6 shows the timeliness of DRB hearings for the period from 2006 through 2010. The average number of days to hold a DRB hearing has increased form 63 days in 2007 to 74 days in 2010.



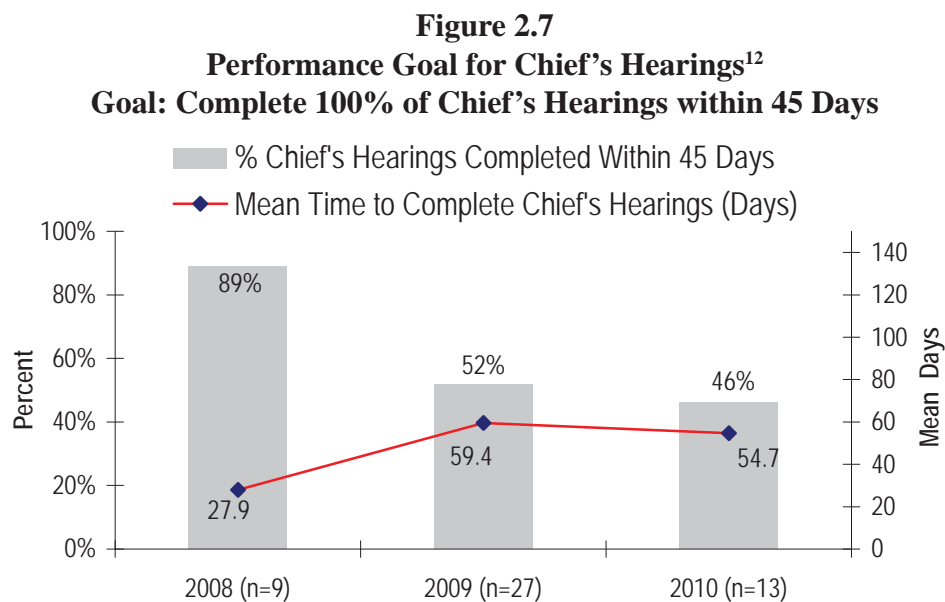
Timeliness of Chief's Hearings

In 2008, the Chief was able to schedule nine Chief's Hearings to be conducted an average of 28 days after a Disciplinary Review Board was conducted. In 2009, the number of cases eligible for a Chief's Hearings tripled, resulting in a substantial reduction in timeliness (59 days on average). Although there were substantially fewer cases eligible for a Chief's Hearing in 2010, the average number of days to conduct such a hearing declined only slightly to 55 days. As such, only 46% of all hearings were conducted within the goal set for completing Chief's hearings: within 45 days after the Disciplinary Review Board is completed.

It must be recognized, however, that the Chief's ability to schedule a hearing can be negatively affected by the Manager of Safety's lack of availability to review a particular case within the 15-day period required by City Charter. In fact, in 2010, nine Chief's Hearings were rescheduled from dates in June to dates in July because of the impending retirement of the Manager of Safety. On average, these cases were delayed by 43 days as a result of the delay. If these cases had been heard as originally scheduled, they would have been conducted within an average of 40 days (after the completion of a Disciplinary Review Board) and within the performance goal set for conducting a Chief's Hearings. Instead, the average number of days from the DRB to the delayed Chief's Hearing for these nine cases was 83 days (well beyond of the performance goal of 45 days)

Figure 2.7 shows the average number of days to complete Chief's Hearings from 2006 through 2010.

The Chief of Police and the Manager of Safety must commit themselves to a timely resolution of disciplinary cases by completing every Chief's Hearing within 45 days or less of a DRB. The Chief and the Manager must lead by example; if they cannot conduct these hearings in a timely manner, how can they assert that others within the chain-of-command should handle these cases in a timely fashion themselves?¹¹



Chapter Two Endnotes

- ¹ The data for this report are drawn from the Denver Police Department’s Internal Affairs records management systems. Since these data were drawn from dynamic, live databases, the reported complaint, allegation, and timeliness numbers will fluctuate slightly over time and are subject to revision until all of the cases for a particular year are investigated and closed. The figures reported in this chapter only include complaints against sworn DPD officers. Also note that citizen and internal complaints numbers do not include scheduled discipline cases, such as personnel complaints arising from “scheduled discipline,” (e.g. when a DPD officer violates a traffic law, gets into a preventable traffic accident, or misses a court date, shooting qualification, or continuing education class). Finally, unlike previous OIM Annual Reports, we opted to not include schedule discipline complaints in this report for two reasons. First, the OIM does not monitor scheduled discipline cases and we have not been able to review the quality of data entry for these cases. Second, the Denver Police Department is currently working to improve the quality of their data collection in relation to certain types of scheduled discipline. Even though not included in this report, the OIM will revisit these data in future reports.
- ² The number of calls was provided by the Denver Police Department Data Analysis Unit and includes Class 1 (Citizen-Initiated) and Class 2 (Officer-Initiated) calls for service. This figure does not include duplicate calls, information calls, and 911 hang-ups where a DPD officer did not respond. In addition, this figure does not include police-citizen contacts that were not record by DPD officers.
- ³ The Denver Police Department refers internally to complaint allegations as “specifications.”
- ⁴ In previous years, the OIM has used 2004 Census data to report on the number of complaints per 1,000 residents. Given that there may have been substantial shifts in Denver’s neighborhood-level populations since then, we will wait until 2010 Census figures are available to resume this reporting practice.
- ⁵ Commendations for 2010 were provided by the DPD’s Professional Standards Unit.
- ⁶ Figure 2.1 Notes: This figure includes all open and closed citizen/internal complaints received between 2006 and 2010. For closed cases, the goal was based on the number of days between the date received and the date closed. For open cases, timeliness was calculated as the number of days between the date received and February 2, 2011. Since this figure includes open cases, reported timeliness can fluctuate slightly until all cases for a particular year have been closed. If a case was delayed due to a criminal investigation, military service or medical leave, the number of days delayed was subtracted from the age of the case. Photo radar cases were excluded. Cases are grouped by the year the complaint was received.
- ⁷ Figure 2.2 Notes: This chart is identical to Figure 2.1, except that it includes only citizen/internal complaints with one or more allegations of unnecessary/inappropriate force. If a case was delayed due to a criminal investigation, military service, or medical leave, the number of days delayed was subtracted from the age of the case. Cases are grouped by the year the complaint was received.

- ⁸ Figure 2.3 Notes: This chart includes only citizen/internal cases subjected to a formal investigation. For closed cases, this goal was calculated based on the number of days between the date received and the date the investigation was completed. For open investigations, the goal was calculated as the number of days between the date received and February 2, 2011. If a case was delayed due to a criminal investigation, military service or medical leave, the number of days delayed was subtracted from the age of the case. Photo radar cases were excluded. Cases are grouped by the year the complaint was received.
- ⁹ Figure 2.5 Notes: For completed command reviews, this calculation is based on the number of days between the date the case was picked-up for command review and date the case was sent back by the division chief. For open cases still undergoing command review at the end of 2010, this goal was calculated as the number of days between the date the case was picked up for review and February 2, 2011. Cases are grouped based on the year the case was picked up for command review.
- ¹⁰ Figure 2.6 Notes: This calculation is based on the number of days between the date the case is sent back from the division chief and the date of the DRB hearing. Cases were grouped based on the year the case became eligible for a DRB, not by the year the DRB was completed.
- ¹¹ It should be noted that the current Manager of Safety, who was appointed to serve as of September 1, 2010, has issued all disciplinary decisions submitted to her office within the 15 day period required by City Charter. Prior to June 30, 2010, a significant portion of cases were not decided within that period, instead, the Manager relied on officers waiving their rights to a speedy disposition of their case by the Manager of Safety.
- ¹² Figure 2.7 Notes: This calculation is based on the number of days between the date of the DRB hearing and the date of the Chief's Hearing. Cases were grouped based on the year the case became eligible for a Chief's hearing (i.e., date of DRB hearing), not by the year the Chief's Hearing was completed.



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Chapter 3

DSD

Monitoring

Complaints

In 2010, the Denver Sheriff Department received 374 complaints compared to 472 in 2009. This represents a continuing decline in the number of complaints filed since 2007.¹

As shown in Table 3.1, 112 complaints received in 2010 were filed by inmates, which represents a slight numerical decline from previous years. Similarly, complaints filed by management, decreased both numerically and as a percentage of all complaints. The only category to buck the overall trend was citizen complaints, which increased slightly in 2010 over 2009 (though the number of citizen complaints in 2010 are within historical norms for the Sheriff Department).

Table 3.1 Number of Complaints Filed Against DSD Deputies by Complaint Source and Year Received (DSD 2010)²

	2007	2008	2009	2010
Citizen	77	84	69	83
column %	13%	15%	15%	22%
Management	281	267	261	167
column %	48%	48%	55%	45%
Employee	17	13	11	9
column %	3%	2%	2%	2%
Inmate	216	189	126	112
column %	37%	34%	27%	30%
Other	1	3	5	3
column %	0%	1%	1%	1%
Total	592	556	472	374

Complaint Allegations

Table 3.2 shows the complaint allegations by year. The difference in the number of complaints (as shown in Table 3.1) and the number of complaint allegations (as shown in Table 3.2) reflects the fact that one individual complaint may involve more than one allegation of misconduct.

In 2010, improper procedure allegations accounted for 33% of the total allegations received. The next most common allegation was “lost property,” accounting for 24% of the allegations.

Table 3.2 Complaint Allegations by Year Received (DSD 2010)

Allegation Type	2007	2008	2009	2010
Excessive Force	25	27	22	16
column %	4%	4%	4%	4%
Improper Conduct	256	116	47	45
column %	38%	18%	9%	11%
Improper Procedure	151	290	245	136
column %	22%	46%	48%	33%
Law Violation	11	12	17	22
column %	2%	2%	3%	5%
Lost Property	95	108	89	98
column %	14%	17%	17%	24%
Other	39	11	16	41
column %	6%	2%	3%	10%
Service Complaint	100	69	78	52
column %	15%	11%	15%	13%
Total	677	633	514	410

Findings

In 2010, the Denver Sheriff Department closed 365 complaint cases involving 408 allegations. Table 3.3 provides the results of the findings for all DSD complaint cases closed in 2010. Approximately 35% of the allegations resulted in a sustained finding in 2010.

Table 3.3 Findings for All Complaint Allegations Closed in 2010 (DSD)

Finding	Number	Percent
Sustained	144	35%
Not Sustained	42	10%
Exonerated	6	1%
Unfounded	65	16%
Informal	9	2%
Service Complaint	5	1%
Resolved	89	22%
Declined	43	11%
Mediation	3	1%
Referred	2	0%
Total Allegations	408	100%
<i>Total Complaints</i>	<i>365</i>	

Table 3.4 Findings on Complaint Cases Closed in 2010 by Complaint Source (DSD 2010)

Table 3.4 provides the findings for complaint cases closed in 2010 by the complaint source. Management-initiated complaints were the most likely to be “sustained” (62%) while citizen-initiated complaints were the least likely to result in a “sustained” finding (13%).

Finding	DSD					Total
	Citizen	Management	Employee	Inmate	Other	
Sustained	11	112	2	19	0	144
column %	13%	62%	20%	15%	0%	35%
Not Sustained	7	7	4	24	0	42
column %	8%	4%	40%	19%	0%	10%
Exonerated	1	3	0	2	0	6
column %	1%	2%	0%	2%	0%	2%
Unfounded	29	3	0	32	1	65
column %	33%	2%	0%	25%	50%	16%
Informal	0	7	0	2	0	9
column %	0%	4%	0%	2%	0%	2%
Service Complaint	4	0	0	1	0	5
column %	5%	0%	0%	1%	0	1%
Resolved	21	34	1	32	1	89
column %	24%	19%	10%	25%	50%	22%
Declined	13	12	2	16	0	43
column %	15%	7%	20%	13%	0%	11%
Mediation	1	1	1	0	0	3
column %	1%	1%	10%	0%	0%	1%
Referred	0	2	0	0	0	2
column %	0%	1%	0%	0%	0%	1%
Total	87	181	10	128	2	408

Imposition of Discipline

Definitions of Disciplinary Actions Taken by the Sheriff Department

A *reprimand* can be either verbal or written and is the lowest form of discipline. The Sheriff Department maintains a record of verbal 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 with 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 recommended to the Manager of Safety’s Disciplinary Advisory Group (DAG) that the “fined time” option be added to possible disciplinary actions. Unfortunately, the union that acts as the bargaining agent for Denver Deputy Sheriffs (the Fraternal Order of Police) would not agree to support such a change in their contract with the City and the proposal was abandoned by the DAG.

Table 3.5 shows the discipline for sustained cases in from 2007 to 2010. The most common form of discipline in 2009 and 2010 was a Written Reprimand, as opposed to 2007 and 2008 where the most common form of discipline was a Verbal Reprimand.

Table 3.5 Discipline for Sustained Cases by Year Closed (DSD)

Discipline	2007	2008	2009	2010
Termination	0	8	6	2
column %	0%	4%	3%	2%
Resigned/Retired Prior to Discipline	4	1	2	6
column %	2%	1%	1%	5%
Demotion	0	0	0	0
column %	0%	0%	0%	0%
Suspension	19	23	27	14
column %	10%	13%	15%	12%
Written Reprimand	47	45	91	50
column %	24%	25%	50%	43%
Verbal Reprimand	111	87	41	41
column %	57%	49%	23%	35%
Cautionary Letter	5	3	5	0
column %	3%	2%	3%	0%
Counseled	5	8	7	4
column %	3%	4%	4%	3%
Disqualification	3	3	2	0
column %	2%	2%	1%	0%
Total	194	178	181	117

Cases Involving Termination, Resignation or Substantial Imposition of Discipline

In 2010, two Deputies were ordered terminated for misconduct. Another six Deputies resigned while serious allegations against them were pending investigation or adjudication by the Department. An additional four Deputies received suspensions of 10 working days or more. By comparison, in 2009, six Deputies were terminated for various acts of misconduct. Another two Deputies resigned while serious allegations against them were pending investigation or adjudication by the Department. An additional eight Deputies received suspensions of 10 working days or more.

Terminations

- A Deputy was terminated after being convicted of a misdemeanor involving off-duty harassment of the Deputy's spouse and after making false statements relating to the incident to Internal Affairs.
- A Deputy was terminated after having engaged in the theft of services and property while off-duty and after having made false statements relating to the incidents to Internal Affairs.

Resignation (Serious Allegations Pending but Prior to the Issuance of a Disciplinary Order)

- A Deputy resigned after having been accused of giving false testimony in a CSA hearing on behalf of another Deputy who had been terminated by the Department.
- Two Deputies resigned after having become involved in a physical altercation with each other while on duty and in uniform in a custodial facility.
- A Deputy resigned after having been alleged to have fraternized with an inmate.
- A Deputy resigned after having been alleged to have fraternized with an inmate's family and having smuggled contraband into a custodial facility.
- A Deputy resigned after having been charged criminally with felony child abuse.

Substantial Suspension (10 or more Working Days)

- A Deputy was suspended for 45 days for submitting false requests for overtime and for insubordination towards supervisors.
- A Deputy was suspended for 45 days for using unnecessary force while searching an inmate (not resulting in injury) and for preparing an inaccurate report and making false statements to Internal Affairs.
- A Deputy was suspended for 30 days for slapping an inmate, writing an inaccurate report, and making false statements to Internal Affairs.
- A Deputy was suspended for 15 days for use of unauthorized leave with prior discipline having been imposed for prior similar violations.

Complaint Patterns

Complaints Per Deputy

Table 3.6 shows that in 2010, 549 Deputy Sheriffs (76%) had no complaints filed against them. One hundred and fifty deputies received at least one complaint. Approximately, 2% of deputies (12 deputies) received three or more complaints in 2010.

In relation to specific types of complaints, 99% of Deputy Sheriffs received no force complaints and 96% received no improper conduct complaints. Roughly 15% of deputies received one or more complaints relating to improper procedure.

Table 3.6 Number of Complaints by Deputy and Type (DSD 2010)

Complaints	All Complaints	Force Complaints	Improper Conduct	Improper Procedure
Zero	549	721	695	618
column %	76%	99%	96%	85%
One	150	4	29	96
column %	21%	1%	4%	13%
Two	16	2	2	11
column %	2%	0%	0%	2%
Three	10	0	1	2
column %	1%	0%	0%	0%
Four	2	0	0	0
column %	0%	0%	0%	0%
Total	727	727	727	727

Table 3.7 Number of Deputies with Sustained Complaints Closed in 2010 (DSD)

Table 3.7 focuses on the number of deputies that had one or more sustained complaints in 2010. The majority of DSD deputies (86%) had no sustained complaints in 2010, while 13% had one sustained complaint and 2% had two sustained complaints. One deputy had four sustained complaints in 2010.

Complaints	Sustained Complaints	Percent
Zero	622	85.6%
One	93	12.8%
Two	11	1.5%
Three	0	0.0%
Four	1	0.1%
Total	727	100%

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.

Overall, 175 of the 180 complainants (97%) that filed a complaint against DSD deputies filed only one complaint during the course of 2010. Approximately 3% of complainants (5 of 180) filed two complaints.

Demographic characteristics of complainants who filed complaints against DSD in 2010 are presented in Table 3.8. The percent column includes missing values while the valid percent column does not.

Table 3.8 Complainant Demographic Characteristics (DSD 2010)

Gender	Number	Percent	Valid Percent
Male	91	51%	57%
Female	69	38%	43%
Missing	20	11%	
Total	180	100%	100%

Race/Ethnicity	Number	Percent	Valid Percent
American Indian	0	0%	0%
Asian/Pacific Islander	1	1%	1%
Black	45	25%	31%
Hispanic	40	22%	27%
White	61	34%	41%
Unknown	33	18%	
Total	180	100%	100%

Age	Number	Percent	Valid Percent
18 and Younger	5	3%	4%
19-24	7	4%	6%
25-30	25	14%	22%
31-40	28	16%	25%
41-50	22	12%	20%
51+	25	14%	22%
Missing	68	38%	
Total	180	100%	100%

Table 3.9 Location of Complaint (DSD 2010)

Location	Number	Percent
County Jail	139	37%
City Jail--PADF (Now Closed)	37	10%
Denver Detention Center	19	5%
Court Service	17	5%
Training	14	4%
Vehicle Impound Facility	9	2%
Denver Health Medical Center	2	1%
Other	137	37%
Total	374	100%

Table 3.9 shows that 37% of the complaints against DSD occurred at the Denver County Jail in 2010.³ The City Jail, also known as the Pre-Arrest Detention Facility (or PADF), accounted for 10% of the complaints (note that this facility closed in 2010). The new Denver Detention Center (which replaced PADF in 2010) accounted for 5% of 2010 DSD complaints.

Commendations & Awards

In the interest of providing a 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. Definitions for some of the departmental awards are provided in Table 3.10.

Table 3.10 DSD Commendation Types and Definitions

Award	Description
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.

**Table 3.11 Commendations & Awards Received
by DSD Employees (2010)**

The Sheriff Department presented 149 commendations and awards to DSD employees in 2010. Detailed descriptions of awards granted by the DSD during the course of 2010 are located in Appendix F of this report, at www.denvergov.org/oim.

As indicated in Table 3.11, the most frequent awards were community service awards (n=46) and letters of appreciation (n=33).

Commendation & Award Type	2007	2008	2009	2010
Supervisors/Director Commendation column %	42 45%	31 24%	19 16%	29 19%
Letters of Appreciation column %	0 0%	41 32%	27 23%	33 22%
Community Service Award column %	22 24%	29 22%	19 16%	46 31%
Distinguished Service Award column %	0 0%	0 0%	4 3%	0 0%
Employee of Quarter column %	4 4%	12 9%	4 3%	4 3%
Employee of Month column %	0 0%	0 0%	24 20%	24 16%
#1 Academic Award column %	3 3%	2 2%	1 1%	1 1%
#1 Defensive Tactic Award column %	3 3%	2 2%	1 1%	1 1%
#1 Physical Fitness Award column %	3 3%	2 2%	1 1%	1 1%
Most Improved Physical Fitness Award column %	3 3%	2 2%	1 1%	1 1%
Top Gun Award column %	3 3%	2 2%	1 1%	1 1%
Valedictorian column %	3 3%	2 2%	1 1%	1 1%
Academy Medal column %	0 0%	2 2%	1 1%	0 0%
Merit Award column %	5 5%	2 2%	8 7%	0 0%
Life Saving Award column %	1 1%	0 0%	5 4%	5 3%
Medal of Valor column %	1 1%	1 1%	2 2%	2 1%
Total	93	130	119	149

Timeliness

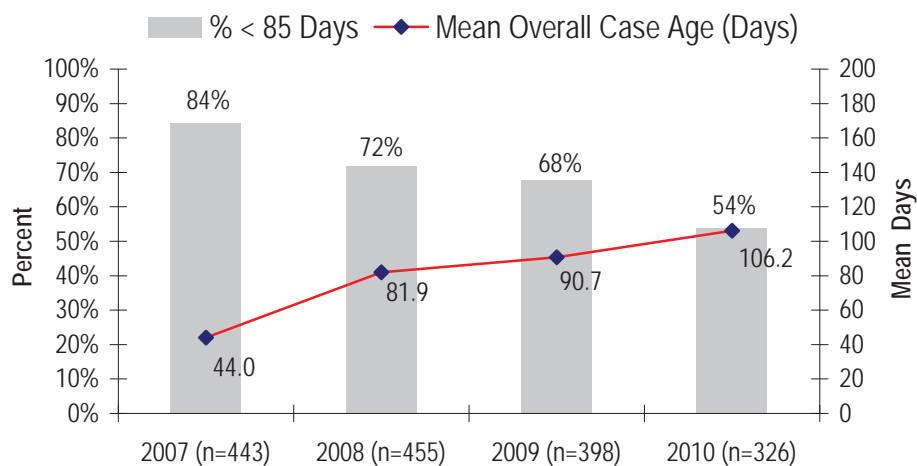
A critical priority in dealing with complaints is the need to resolve them in a timely manner. Providing recommendations on how to improve the timeliness of complaint handling has been a priority for the Office of the Independent Monitor (OIM) since its inception. As a result, the Monitor established timeliness goals in 2006 for the handling of complaints.

Figure 3.1 reports on the first timeliness goal, which is to close 100% of all complaints within 85 days. The bars in this figure represent the percentage of cases that were closed within 85 days of the date they were received. The lines represent the average overall age of cases received in those years.

In 2010, on average, citizen-internal complaints were closed within 106 days of the complaint having been received by the Sheriff Department or the Monitor's Office, which is an increase over the previous year. Only 54% of cases were closed within 85 days (well below the goal of 100%).

The decline in timeliness that took place between 2009 and 2010 is largely attributable to a reduction in the staffing levels in Sheriff Internal Affairs. In late 2010, staffing levels were restored and the backlog of cases is currently being reduced.

Figure 3.1
Performance Goal for Closing All Citizen-Internal Complaints
Goal: Complete 100% of All Complaints within 85 Days⁴



In previous years, the OIM has reported quantitatively on the timeliness of investigations and discipline. In 2010, the OIM determined that it could not accurately report on the timeliness of these stages of the DSD complaint handling process due to data entry issues with the Internal Affairs Bureau (IAB) database. The OIM will be working with IAB staff in the coming months to resolve these issues and will resume reporting on the timeliness of investigations and discipline in 2011.

Timeliness Issues Regarding Internal Affairs Investigations and Findings

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 shorten the duration for all cases except the most complex, serious and those which involve exceptional circumstances.

In order to achieve this goal, though, the staffing at the Internal Affairs Bureau needs to be adequate. The Monitor's Office was concerned that in 2009, the staffing in the Sheriff Internal Affairs Bureau was reduced from five Sergeant-investigators to four. As a result, and due to an increased number of unauthorized leave investigations, IAB staff had a greater strain on its resources in 2009 than in preceding years, which made it more difficult to complete its investigations in a timely fashion. As an example of these difficulties, at the end of 2009, Sheriff Internal Affairs had three cases still open that were over one-year-old as of the end of the calendar year for the first time since OIM monitoring started. Although all three of those cases were resolved by the end of 2010, the Department now has even more cases that have passed the one-year mark. The Monitor expects, however, that timeliness will improve in 2011 due to increased staffing in Internal Affairs towards the latter part of 2010.

Descriptions of Denver Sheriff Department Cases Over One Year Old as of December 31, 2010

Case #1: Opened April 2009. Case involves allegations of inappropriate force. The case was delayed by the military deployment of the subject Deputy. As such, the subject Deputy was not interviewed until September 2010. The investigation was completed in October 2010 and a pre-disciplinary hearing was conducted in December 2010. A disciplinary decision by the Manager of Safety was made in January 2011.

Case #2: Opened September 2009: Case involves allegations of inappropriate force. The Internal Affairs investigation was not completed until November 2010. The delay in the investigation was attributable to staffing issues in Internal Affairs. A pre-disciplinary hearing was set for February 2011.

Case #3: Opened October 2009. Case involves an erroneous release. The Internal Affairs investigation was not completed until August 2010. The delay in the investigation was attributable to staffing issues in Internal Affairs. A pre-disciplinary hearing was conducted in early January 2011 and discipline was imposed and the case closed shortly thereafter.

Case #4: Opened November 2009. Case involves allegations of inappropriate force. The Internal Affairs investigation was not completed until December 2010. The delay in the investigation was attributable to staffing issues in Internal Affairs. A pre-disciplinary hearing was scheduled for February 2011.

Case #5: Opened December 2009. Case involves allegations of unlawful possession of a firearm while intoxicated. The underlying criminal case was resolved April 2010. The Internal Affairs investigation was not completed until January 2011. The delay in the investigation was attributable to staffing issues in Internal Affairs.

Case #6: Opened December 2009. Case involves allegations of theft of cash from the accounting office. The Internal Affairs investigation was not yet completed as of the end of the year. The delay in the investigation was attributable to staffing issues in Internal Affairs.

Chapter Three Endnotes

- ¹ Since these figures were drawn from a live internal affairs database, the counts can fluctuate until all complaints from that year are fully investigated and closed. These figures only include complaints filed against sworn DSD deputies.
- ² The DSD Management complaint category includes both traditional Internal Affairs Bureau (IAB) cases and non-IAB personnel complaints. The OIM does not monitor non-IAB personnel complaints.
- ³ All or part of this reduction may have been caused by a reduction in the County Jail's population when the Denver Detention Center was opened in mid-2010.
- ⁴ This goal includes both open and closed cases was based on the number of days between the date received and the date closed (for closed cases) or the date received and February 7, 2011 (for open cases). If a case closed in 2010 was delayed due to a criminal investigation or military leave, the number of days delayed was subtracted from the age of the case (these data were unavailable for cases closed prior to 2010). Bureau-level (non-IA) personnel complaints were excluded from the analysis.



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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 "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 involved 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.¹ Upon notification, the Monitor would determine whether to roll-out to the scene of the incident or to respond to Internal Affairs to actively monitor such an investigation.

In 2010, the Monitor's Office "rolled out" to eighteen critical incident investigations. Specifically, Monitor personnel responded to six DPD officer-involved shootings, one Sheriff deputy-involved shooting, two DPD in-custody deaths, three in-custody suicides at the City and County Jails, one in-custody death at the Denver Detention Center, two DPD incidents involving uses of force, one DPD incident involving an attempted suicide, one DPD incident involving a medical death, and one DPD incident involving an allegation of sexual assault against an officer.

Officer-Involved Shooting and 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.

Table 4.1 Officer-Involved Shooting Statistics for 2010

Types of Shootings		Number	Years of Service of Shooting Officers (Intentional DPD OISs)		Number
On-Duty Intentional Officer-Involved Shootings (DPD)		6	Probationers (under one year)		0
On-Duty Intentional Officer-Involved Shootings (Sheriff)		1	Between 1-5 years		10
Animal Shootings		2	Between 6-10 years		0
Accidental Discharges		3	Between 11-15 years		2
			Between 16-22 years		0
Results of Officer Shots Fire			Assignments of Officers involved in Intentional DPD OISs		
Fatalities		3	District 1		1
Injuries		3	District 2		1
			District 3		0
Number of Shooting Officers			District 4		8
DPD Officers (Intentional DPD OISs)		12	District 5		0
DSD Deputies (Intentional DSD OISs)		0	District 6		2
			Gang Bureau		0
Rank of Shooting Officers (Intentional DPD OISs)			SWAT		0
Officer		11	Traffic Operations		0
Corporal		1	Race/Gender of Subjects (DPD Intentional Shootings)		
			Black Male		1
Race/Gender of Shooting Officers (Intentional DPD OISs)			White Male		1
White Males		9	Hispanic Male		4
Hispanic Males		3			

Table 4.2 Officer-Involved Shootings by Type and Year (DPD 2010)

Type	2006	2007	2008	2009	2010
On-Duty	11	7	6	3	6
Off-Duty	1	0	0	0	0
Animal	4	3	3	2	2
Accidental	1	7	2	4	3
Total	17	17	11	9	11

Table 4.3 Officer-Involved Shootings by Suspect Weapon Type and Year (DPD 2010)

Year	Firearm	Knife	Vehicle	Other	Unarmed
2000	1	0	3	0	0
2001	2	3	1	0	0
2002	5	2	0	0	0
2003	5	3	0	2	0
2004	2	1	0	0	1
2005	1	0	2	0	0
2006	6	0	1	2	0
2007	1	2	1	2	0
2008	4	1	0	2	0
2009	1	0	1	1	0
2010	4	1	1	0	0
Total	32	13	10	9	1

Table 4.4 Officer-Involved Shootings by Outcome and Year (DPD 2010)

Year	Injuries	Deaths	Total Injured/Killed
2000	3	1	4
2001	1	5	6
2002	4	3	7
2003	2	8	10
2004	1	3	4
2005	0	1	1
2006	3	3	6
2007	6	1	7
2008	4	3	7
2009	0	3	3
2010	3	3	6
Total	27	34	61

Summary and Status of 2010 Officer-Involved Shootings, Investigations, and Review Processes

There were six officer-involved shootings in 2010 and one deputy-involved shooting:

Sheriff Department Incident #1

February 18, 2010: Two Deputy Sheriffs were attempting to arrest a suspect on an outstanding warrant. The suspect attempted to flee and struck one Deputy with his vehicle. The second Deputy fired one shot through the driver's window of the vehicle. The suspect fled and was later arrested. The suspect suffered only a minor injury from the driver window glass which was shattered by the shot fired by the Deputy.

No District Attorney "shoot letter" was prepared as the suspect was not hit by a bullet fired by the Deputy. The Sheriff Department found the shooting "in-policy" and the Monitor concurred.

The Deputy fired only one shot in defense of his partner. The Deputy's partner was running to the driver's side of the vehicle in an attempt to assist in putting the suspect into custody. The suspect attempted to flee, without regard to the likelihood he could have injured or killed the Deputy's partner in this case. As such, the shooting was justified.

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 that results from the case. The Monitor also provides input to both the Director of Corrections and the Manager of Safety. The Monitor's independent determination that the deadly use of force was justified in this case was based upon his involvement as noted above, and his review of the facts of the case.

Police Department Incident #1

March 7, 2010: Two police officers shot and wounded a suspect of a road rage incident who attempted to flee arrest in a motor vehicle.

A District Attorney officer-involved shooting investigation letter was issued on March 17, 2010 (See, denverda.org/News_Release/Decision_Letters). Given that the subject was not killed, a report from the Manager of Safety was not issued.

The shooting officers were faced with a subject who was intent on fleeing, regardless of the presence of a police officer in his direct path of flight. One officer was in fear for his life when he fired, the other officer fired in defense of the other officer.

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 was based upon his involvement as noted above, and his review of the facts of the case.

Police Department Incident #2

April 14, 2010: Officers responded to a call for help from the subject's wife who indicated that her husband appeared to be hallucinating and was armed with knives. Upon responding to the residence, the officers were immediately confronted by the subject, who immediately advanced on one of the responding officers. The officer attempted to stop the subject by shooting him with a less-lethal beanbag round, but that shot had no effect. While armed with two knives, the subject began to chase the officer. One officer shot and killed the subject in defense of the other officer.

A District Attorney officer-involved shooting investigation letter was issued on April 27, 2010 (See, denverda.org/News_Release/Decision_Letters). A public report relating to this incident was issued by the Manager of Safety on October 14, 2010.

The Use-of-Force Review Board was conducted on October 11, 2010. The Department concluded that the officer's use of deadly force was justified in this case and the Monitor concurred. Although it was clear that the subject was suffering from a mental illness, his actions in attempting to attack one of the officers, while armed with two knives, gave the officers no choice other than to use lethal force to stop the threat. The case was referred to the Tactics Review Board to discuss tactical issues given the lack of lethal cover provided for the officer who deployed a "beanbag shotgun" during the incident.

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 was 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 October 14, 2010) on the incident. That report can be found at www.denvergov.org/safety/ by clicking on the Public Statements of the Manager of Safety tab.

Police Department Incident #3

June 28, 2010: Two officers shot and killed a man who refused to put down a replica firearm when ordered to do so. Shortly before the shooting, the man had stolen the replica firearm from another person and, likely believed it to be real. The firearm was believed by the involved officers to be real.

A District Attorney officer-involved shooting investigation letter was issued on July 8, 2010 (See, denverda.org/News_Release/Decision_Letters). A public report relating to this incident was issued by the Manager of Safety on December 28, 2010.

The Use-of-Force Review Board was conducted on November 17, 2010. The Department concluded that the officer's use of deadly force was justified in this case and the Monitor concurred. The subject ignored the involved officer's attempt to take him into custody without the use of lethal force. He brandished what appeared to be a firearm at one of the officers; as such, both officers were justified in shooting the subject in self-defense.

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 was 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 December 24, 2010) on the incident. That report can be found at www.denvergov.org/safety/ by clicking on the Public Statements of the Manager of Safety tab.

Police Department Incident #4

July 2, 2010: Two officers confronted a gunman in the middle of a bar out-crowd at closing time. An innocent bystander was wounded by the police gunfire. The gunman was not injured but was arrested shortly thereafter.

A District Attorney officer-involved shooting investigation letter was issued on July 26, 2010 (See, denverda.org/News_Release/Decision_Letters).

The Use-of-Force Review Board reviewed the case on December 17, 2010. The case was referred out for further command review at that time. The Use-of-Force Board also referred the case to the Tactics Review Board for further review. As of the end of the year, the case was pending command review.

Police Department Incident #5

July 18, 2010: A police officer shot and wounded a man who was present at the scene of a recent homicide and who was armed with a firearm but refused to put down the firearm when ordered to do so.

A District Attorney officer-involved shooting investigation letter was issued on July 21, 2010 (See, denverda.org/News_Release/Decision_Letters). A public report relating to this incident will not be issued by the Manager of Safety as the subject was not killed.

The Use-of-Force Review Board was conducted on January 31, 2011.² The Department concluded that the officer's use of deadly force was justified in this case and the Monitor concurred. The subject ignored the involved officer's attempt to take him into custody without the use of lethal force. He brandished a firearm at of officer, who was justified in shooting the subject in self-defense.

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 was based upon his involvement as noted above, and his review of the facts of the case.

Police Incident #6

August 1, 2010: Four officers shot and killed a suicidal man who was armed with a replica firearm and who pointed the replica firearm in the officers' direction. The officers believed the firearm to be real at the time of the incident.

A District Attorney officer-involved shooting investigation letter was issued on August 26, 2010 (See, denverda.org/News_Release/Decision_Letters). A public report relating to this incident was issued by the Manager of Safety on February 1, 2011.

The Use-of-Force Review Board was conducted on January 31, 2011. The Department concluded that the officer's use of deadly force was justified in this case and the Monitor concurred. The subject was clearly suicidal and intent on committing "suicide by cop" and the officers were justified in shooting him in self defense. The Use-of-Force Review Board referred the case to the Tactics Review Board and the Monitor recommended that the case be evaluated by the Department's Crisis Intervention Team coordinator to determine whether further training or debriefing would be appropriate. In addition, the Department noted that no supervisor was available to respond to the incident when it took place. The District command counseled a supervisor who had taken off earlier that day for failing to confer with the watch commander to ensure adequate supervisory staffing.

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 was 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 February 1, 2011) on the incident. That report can be found at www.denvergov.org/safety/ by clicking on the Public Statements of the Manager of Safety tab.

2009 Officer-Involved Shooting Where Administrative Review was Pending as of Issuance of 2009 Annual Report

December 13, 2009: An officer, responding to a call of a man shooting a gun while walking through a neighborhood, confronted the suspect while responding to the call. The officer reported that the subject pointed his firearm at him and the officer fired in self-defense. A second officer struck the subject on the head with his firearm after the subject, according to the officer, failed to comply with commands that would allow him to be safely handcuffed and treated.

A District Attorney officer-involved shooting investigation letter was issued on January 2, 2010 (See, denverda.org/News_Release/Decision_Letters).

The Use-of-Force Review Board was conducted on April 28, 2010. The Department concluded that the officer's use of deadly force was justified in this case and the Monitor concurred.

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 was 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 June 1, 2010) on the incident. That report can be found at www.denvergov.org/safety/ by clicking on the Public Statements of the Manager of Safety tab.

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

There were six in-custody deaths in 2010, three in the Denver County Jail, one in the new Denver Detention Center and two while individuals were being taken into custody by Denver Police officers.

In 2010, inmates in the Denver County Jail committed three suicides, up from one in 2009 and equal to the number of suicides committed in 2008.

Table 4.5 In-Custody Deaths by Department, Type, and Year

Year	Sheriff Department			Police Department		City/County
	Suicide	Medical	Other	Suicide	Other	Total
2006	2	1	0	0	1	4
2007	4	4	0	0	2	10
2008	3	1	0	0	1	5
2009	1	5	0	1	1	8
2010	3	0	1	1	1	6
Total	13	11	1	2	6	

There was one in-custody death in the Denver Detention Center after Sheriff Deputies used force on an inmate.

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

January 5, 2010: An internal affairs investigation was conducted with regard to the death of an individual who had stopped his vehicle on Interstate 25 during rush-hour traffic. Police officers used a taser and a bean bag shotgun to attempt to control the individual and take him into custody. After he was taken into custody, he was transported to Denver Health, where he died several days later. The Use-of-Force Board reviewed the case on April 28, 2010. No policy violations were identified. The Monitor concurred with the Department’s evaluation of the case.

April 16, 2010: An internal affairs investigation was conducted with regard to a suicide that took place at the County Jail. The Internal affairs investigation was completed in September 2010 and findings were made by the Division Chief in early October 2010. No policy violations were identified. The Monitor concurred with the Department’s evaluation of the case.

May 12, 2010: An internal affairs investigation was conducted with regard to a suicide that took place at the County Jail. The internal investigation was completed in January 2011 and findings were made by the Division Chief in early February 2011. No policy violations were identified. The Monitor concurred with the Department's evaluation of the case.

July 9, 2010: An inmate died after force was used on him by several Sheriff Deputies. The District Attorney issued a letter on September 28, 2010, concluding that no criminal charges would be filed against the involved Deputies. The internal affairs investigation was completed in February 2011, and was pending command review as of the writing of this report.

August 3, 2010: While officers were trying to contact an individual after a complaint had been made against her by a neighbor, the individual jumped from her apartment window and died. The Use-of-Force Board reviewed the incident on January 31, 2011. The Department determined that no policy violations took place. The Monitor concurred with the Department's evaluation of the case.

November 23, 2010: An internal affairs investigation was conducted with regard to a suicide that took place at the County Jail. The investigation was still pending as of the writing of this report.

2009 In-Custody Death Investigations Closed in 2010

August 5, 2009: An internal affairs investigation was conducted with regard to a medical death that took place at the Denver Health Medical Center. No policy violations were identified. The Monitor concurred with the Department's evaluation of the case.

September 17, 2009: An internal affairs investigation was conducted with regard to a suicide that took place at the County Jail. No policy violations were identified. The Monitor concurred with the Department's evaluation of the case.

November 28, 2009: An internal affairs investigation was conducted with regard to a medical death that took place at the City Jail. No policy violations were identified. The Monitor concurred with the Department's evaluation of the case.

Chapter Four Endnotes

- ¹ 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.
- ² This case was resolved by the Use-of-Force Review Board six months and thirteen days after the incident. This was the first officer-involved shooting case, not involving a policy violation, which the Department was unable to complete within the six month goal adopted by the Department of Safety in 2008.



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Chapter 5

Special Initiatives and Policy Issues

Monitor Recommendations Regarding the Police Departments Discipline Process

The Disciplinary Review Board (DRB) process was created before the existence of the OIM and the Citizen Oversight Board. It was designed, in large part, to allow for citizen and peer officer involvement in the deliberative process. Unfortunately, in a number of cases, the OIM has noted that peer officers and citizen members have failed to follow matrix rules and have allowed emotion to affect their recommendations. In those cases, the DRB process loses its value and the recommendations that are made have little validity.

In addition, some DRB's do not result in majority opinions. As a result, the Chief of Police and the Manager of Safety are not provided with any real guidance from the DRB in making their own recommendations and decisions.

The process is further tainted by the fact that the Department is given no opportunity to rebut presentations made by the subject officer and his or her union representative. In fact, while the Department routinely makes objective presentations on behalf of the disciplinary recommendation made by the officer's Division Chief, oftentimes the officer and/or the officer's union representative will make emotional presentations or present inaccurate information that impacts DRB deliberations and results in non-viable recommendations from the DRB.

The DRB also consistently recommends lower discipline than either the Division Chief or the final decision makers on cases (typically the Manager of Safety). The OIM reviewed the cases of 26 officers that had a DRB hearing in 2010. In not a single case did a majority of the DRB make a disciplinary recommendation higher than that recommended by the officers' Division Chief. In 16 cases (62%), a majority of the DRB made a disciplinary recommendation that was lower than the Division Chief's recommendation. The DRB agreed with the Division Chief's recommendations in nine cases (35%). In one case, the DRB's recommendations were split, with the majority being lower than or equal to the Division Chief. Similarly, 21 officers had a DRB in 2010 where the Manager of Safety or Chief of Police made a final disciplinary decision on their case (as of 2/28/2010). Out of those cases, the DRB recommended a lower level of discipline in 14 cases (67%) and the same discipline in three cases (14%). In only four cases did the DRB recommend higher discipline than the Manager of Safety (19%).

Disciplinary Review Boards take, on average, 74 days to be conducted from the date that a Division Chief renders a disciplinary recommendation. This extra delay in the imposition of discipline on serious cases is particularly problematic for the integrity of the disciplinary process.

Based on these concerns, the Monitor is recommending that the Manager of Safety and Chief of Police create a working group to evaluate the overall disciplinary process, including the use of the Disciplinary Review Boards in this process. The Department needs to critically evaluate the process to figure out whether there is a better way to impose discipline and do so in a more timely fashion.

Media Training Recommendation

On June 1, 2010, as per a prior request of the Monitor, the Department issued a Training Bulletin titled "Media Relations at the Scene of an Incident." The bulletin was issued as a result of Monitor concerns regarding an apparent lack of understanding as to the rights of the media vis-à-vis the rights of private property owners.

Internal Affairs Compliance Investigations

During the course of 2010, the Internal Affairs Bureau began to conduct “compliance investigations” to ensure that officers who signed stipulations to abstain from the use of alcohol or who were assigned to their homes pending internal investigations were complying with orders to that effect.

Sheriff Department Ability to Track Uses of Force by its Deputies

In our 2009 Annual Report, the Monitor noted that it was not possible for Sheriff Internal Affairs personnel to obtain copies of use-of-force reports by looking up specific officers. The ability to identify patterns of uses of force can help the Department better manage its officers and identify problematic activities at an early stage. The Monitor noted that the Police Department had a database that allows for the search of all uses of force by individual officers. The Monitor’s Office recommended that the Sheriff Department create a similar such database to allow for more comprehensive evaluation of a specific deputy’s uses of force.

In a recent inquiry, the Monitor requested information on how often sheriff deputies had used the “carotid restraint” on inmates in their custody. The Department was unable to comply with this request as an extremely labor-intensive hand search of all incident reports would have been required to obtain this information.

In 2010, the Monitor met with Sheriff command staff and was advised that the Department is in the process of using the newly installed “Jail Management System” (JMS) to track uses-of-force by deputy sheriffs. As of the end of this last year, however, JMS has still not been used for that purpose. This database would be a helpful tool to ensure identification of any officer who may be using force more than similarly situated officers and who could benefit from training or mentoring. The Monitor anticipates that action will be taken in 2011 to implement this important tracking system.

“Excited Delirium” Policy Review

In the Monitor’s 2008 Annual Report, the Monitor noted four in-custody deaths within the last three years, 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.

In 2009 there was an additional death which involved a struggle with private security guards, but where the individual died shortly after being placed in police custody.

Each of these deaths had some of the characteristics associated with a category of deaths commonly referred to as “excited delirium.” Such incidents 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 or mental health conditions and a law enforcement use of force (among other issues).

Although the Monitor was aware that the Police and Sheriff Departments both have training and policies in place relating to this issue, the Monitor attended specialized training in late 2009 to research national best practices into training and policies relating to “excited delirium” deaths. In 2010, the Monitor’s Office sponsored a multi-agency group to attend similar training. This group included representatives

from the Police and Sheriff Departments, Denver Health, the Monitor's Office, the City Attorney's Office, and the Combined Communications Center. A workgroup was subsequently organized that also included representatives from the Coroner's Office.

In the upcoming year, this workgroup will examine the current policies of each organization to ensure that Denver is able to provide a comprehensive multi-agency response to these critical incidents and that all affected agencies are communicating as necessary. The Monitor will report on the progress of the workgroup in the upcoming year.

Final 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 the Police Assessment Resource Center (PARC) report which reviewed Police Department deadly force policies and evaluated the quality of the investigations and administrative reviews 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 had been 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 was a national leader in this area and found no systemic problems in the current investigation or review of deadly force incidents. 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.

In our last annual report, we reported on a number of policy recommendations that had been implemented by the Department. In 2010, the Department completed its implementation plans specifically to include banning further use of the "sap" (usually a leather-covered flat or round piece of lead), the flashlight, and firearms as authorized impact weapons.

Department policies regarding the use of the taser were also updated in 2010, in part based on PARC's recommendations: including revising the policy to provide that the taser may be used to defend an officer or a third person from a threat of death, or on a pregnant woman in lieu of deadly force. The policy was also updated to prohibit officers, absent compelling reasons, from using the taser when: 1) the subject is in a position where a fall may cause serious bodily injury or death; 2) its use could cause the suspect to lose control of a motor vehicle; 3) the subject is holding a firearm; and 4) when the subject is at the extremes of age or physically disabled. The policy also limited the use of the taser in "drive stun" mode and limited multiple discharges of the taser.

The Department also finalized changes to the SWAT Bureau's canine policies, which upon review by PARC, was deemed to have adequately captured the spirit, if not the specific language, of its recommendations.

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 have been "sustained" for lying during Internal Affairs investigations. As of October 1, 2008, the Police Department initiated a new "disciplinary matrix" which calls for presumptive termination for an officer who has "willfully, intentionally, or knowingly committed a materially deceptive act. . .in connection with any investigation, . . .judicial or administrative proceeding." The Sheriff Department adopted a similar disciplinary matrix as of January 1, 2011.

Monitor's Continuing Concerns Regarding Entries Made Into Private Residences

During the course of 2010, as in 2008 and 2009, the Monitor continued to identify complaints wherein officers allegedly made entry into private residences without consent, a warrant, or exigent circumstances. In certain cases, the officers' command staff and/or Internal Affairs believed that the officers' actions were reasonable, however, legal research highlighted concerns that the officers' actions may not have been Constitutionally permissible.

As a result of issues raised by the Monitor's Office, the Department issued a "Civil Liability Bureau Newsletter" in 2008 which dealt specifically with issues relating to when officers are permitted to make a warrantless entry into a location without consent. In 2009, a training bulletin relating to when officers are Constitutionally permitted to conduct "protective sweeps" (to ensure there is no danger to an officer who is legally present at a residence) was completed and distributed. A second training bulletin, dealing with when an officer can conduct a "consent search" was issued in early 2010. A third training bulletin, dealing with entries pursuant to an arrest warrant, was issued in April of 2010.

The Monitor's Office looks forward to additional training bulletins being issued in the 2011 calendar year to ensure Denver police officers are fully aware of their rights and responsibilities in this area and to avoid future legitimate complaints regarding unlawful entries into residences.

Over the course of the year, the Monitor's Office has continued to find it necessary to intervene regarding the issue of warrantless entries into residences. The Monitor continues to work with Patrol Division Command Staff to ensure the District supervisors are familiar with the legal requirements for such entries and that any need for Monitor intervention in this area will be reduced in future years.

Police Department Policy Update to Require Supervisors Investigating Use-of-Force Incidents to Obtain Video Evidence if Available

As a result of a use-of-force District-level investigation wherein the officer was initially exonerated, but where the subsequent discovery of video evidence (obtained by the subject of the use-of-force) resulted in the opening of an internal affairs investigation, the Monitor's Office recommended that the Department update its policy relating to District-level investigation of uses of force. The new policy, which the Department is in the process of implementing, will ensure that District supervisors "Make every reasonable effort to identify video and/or still photos that may contain evidence relevant to [a use of force] investigation and document actions taken to obtain and preserve the evidence and/or the instruments that contain such evidence, . . .and ensure that Supervisory or command officers who are responsible for reviewing use of force incidents or injury prior to arrest incidents ensure that appropriate follow up is conducted to obtain and preserve video and/or still photo evidence depicting the incident." (Note: This paragraph updated on May 11, 2011)

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