



INTRODUCTION AND OVERVIEW

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

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

DENVER POLICE DEPARTMENT

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

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

Once the District Attorney has decided whether it will file criminal charges against anyone involved in the incident (including the officer(s)), the Homicide Unit reports are submitted to the DPD Internal Affairs Bureau to commence the administrative investigation to determine whether the involved officer(s)' actions are in violation of



any Police Department policy or procedure. The Monitor's Office confers with Internal Affairs to determine whether further investigation is necessary from an administrative perspective. Once the administrative investigation is completed, the case is then submitted to a DPD Use-of-Force Board (consisting of the Police Department's four Division Chiefs and two civilian volunteers and chaired by the Commander of Internal Affairs) to determine whether any violations of the Police Department's use-of-force policies have occurred. The Monitor's Office is present during all Use-of-Force Board proceedings and deliberations.

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

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

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

Timeliness:

Timeliness of investigations is essential to ensuring the integrity of internal affairs processes. Timely investigations are important to employees, who legitimately



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

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

Officer-Involved Shooting Cases Pending Administrative Review as of the end of the 3rd Quarter, 2008:

- **April 4, 2008:** SWAT officers shot and killed a narcotics suspect while making a forced entry into his apartment to execute a search warrant. A District Attorney shooting letter was issued on April 21, 2008 (See: www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm). The Homicide investigation was deemed complete and the case was heard by a Use-of-Force Board on June 25, 2008. As the case involved a fatality, a public report from the Manager of Safety is pending and is expected to be published on or before October 4, 2008.
- **May 17, 2008:** Officers responding to a domestic disturbance made contact with a suicidal man who was armed with a knife. Officers attempted to use less lethal instruments including a “pepper-ball” gun and a taser to subdue the suicidal man. Officers eventually shot and killed the man, who was armed with a knife and, reportedly, advancing on an officer in an aggressive manner. A District Attorney shooting letter was issued on July 10, 2008 (See www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm). The Homicide investigation was deemed complete and the case was heard by a Use-of-Force Board on September 30, 2008. As the case involved a fatality, a public report from the Manager of Safety is pending and is expected to be published on or before November 17, 2008.
- **June 22, 2008:** Officers responded to a gunfight in lower downtown at closing time. Two individuals fired multiple shots at each other, injuring numerous bystanders. Officers confronted a man armed with a shotgun and shot and injured him after he fired a shot at an officer. Officers then shot and killed a second man who picked up the shotgun and pointed it at the officers after the shotgun was dropped by the first man. A District Attorney shooting letter was issued on July 18, 2008(See www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm). The Homicide investigation was



deemed complete and the case was heard by a Use-of-Force Board on September 30, 2008. As the case involved a fatality, a public report from the Manager of Safety is pending and is expected to be published on or before December 22, 2008. The Monitor has been informed that the pending criminal prosecution of the suspect who was shot and injured may delay the issuance of this public report.

- **September 24, 2008:** Officers attempted to contact a possible robbery suspect who ran from them. At the conclusion of a foot pursuit, two officers fired multiple shots at the suspect after he threatened to shoot them. The suspect was injured, but not killed. A District Attorney shooting letter was pending as of the end of the quarter.

Officer-Involved Shooting Cases Administratively Closed in the 3rd Quarter, 2008:

None

In-Custody Death Cases Pending Administrative Review as of the end of the 3rd Quarter, 2008:

- **July 2008:** A prisoner died after being taken into custody using take-down and control holds as well as hand strikes and kicks. Homicide and Autopsy reports were received by Internal Affairs in September. The case is currently being reviewed by the Monitor's Office and Internal Affairs and will subsequently be referred to a Use-of-Force Board.

Fatal Traffic Collision Involving a DPD Officer Pending Administrative Review as of the end of the 3rd Quarter, 2008:

- **October 2007.** A passenger died after the vehicle in which he was traveling was struck by a police car traveling Code-10 (driving with lights illuminated and siren audible) through a red light. The involved officer was charged by the Denver District Attorney's Office with two misdemeanor charges (careless driving causing death and careless driving causing substantial bodily injury). The officer pled guilty to a traffic infraction of disobedience to a traffic signal. Upon the completion of the criminal prosecution, the administrative review process was re-initiated. The case is currently pending an Internal Affairs investigation.

In-Custody Death Cases Administratively Closed in the 3rd Quarter 2008:

None



DENVER SHERIFF'S DEPARTMENT

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

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

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

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

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



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

Sheriff In-Custody Death Cases Pending Administrative Review as of the end of the 3rd Quarter 2008:

- **August 2008.** An inmate died due to a preexisting medical condition. An internal affairs inquiry is pending.

Sheriff In-Custody Death Cases Administratively Closed in the 3rd Quarter, 2008:

- **None**