



DENVER
The Mile High City

*Police and Sheriff
Discipline and Critical Incident Report*

Fourth Quarter 2011

Office of the
Independent Monitor

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Independent Monitor



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Table of Contents

	PAGE
Chapter 1: Critical Incident Report	
Introduction and Overview	1 - 3
DPD Investigation and Review Protocol	1 - 4
DPD Shooting Cases Pending at End of the Quarter	1 - 5
DPD Shooting Cases Closed During the Quarter	1 - 6
DPD In-Custody Death Cases Pending at End of the Quarter	1 - 7
DPD In-Custody Death Cases Closed During the Quarter	1 - 7
DSD Investigation and Review Protocol	1 - 8
DSD In-Custody Death Cases Pending at End of the Quarter	1 - 9
DSD In-Custody Death Cases Closed During the Quarter	1 - 9
Chapter 2: DPD New Complaints, Sustained Findings, and Discipline	
New Complaints by Month Received	2 - 3
Internal Affairs (IA) Allegations Received by Case Type	2 - 3
Sustained Allegations on Formal Investigations by Month Closed	2 - 4
Denver Police Department Disciplinary Matrix Definitions	2 - 4
Discipline on Sustained Allegations Closed During the Quarter	2 - 5
Chapter 3: DSD New Complaints, Sustained Findings, and Discipline	
New Complaints by Month Received	3 - 3
Internal Affairs (IA) Allegations by Month Received	3 - 3
Sustained Allegations For IA Cases by Month Closed	3 - 4
Discipline on Sustained Sheriff Department Reprimands	3 - 4
Discipline on Sustained Internal Affairs Cases	3 - 5
DSD Commendations Received During 2011	3 - 7
Chapter 4: Monitor Concerns Regarding the Sufficiency of DPD Internal Affairs Bureau Case Handling	
	4 - 1



CRITICAL INCIDENT REPORT

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CRITICAL INCIDENT RESPONSE

INTRODUCTION AND OVERVIEW

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

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

TIMELINESS

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

The OIM has established a goal that the DPD and DSD resolve critical incident investigations within six months of the incident. It must be acknowledged, however, that some cases will take longer to complete, due to their complexity or where policy violations are identified and discipline must be imposed.

DENVER POLICE DEPARTMENT

OFFICER-INVOLVED SHOOTING AND IN-CUSTODY DEATH INVESTIGATION AND REVIEW PROTOCOL

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

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

If the Use-of-Force Board finds that the officer's actions were in compliance with DPD policy ("in-policy"), the case is forwarded to the Chief of Police for his review. If the Chief of Police and the OIM agree there were no policy violations (in non-fatal shootings), the case is closed and no further administrative action is taken. If the incident involves a fatal shooting, the Manager of Safety makes the final determination and issues a public report.

If 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. The officer is then given the opportunity to respond to the allegations and provide any mitigating statements to the Chief of Police at a "Chief's Hearing" (also known as a pre-disciplinary meeting). The OIM will also make a disciplinary recommendation to the Chief of Police. Both the Chief's recommendation and that of the OIM are forwarded to the Manager of Safety for his or her consideration.

If the Monitor disagrees with a recommendation made by the Use-of-Force Board or the Chief of Police, that recommendation will be forwarded to the Manager of Safety, who is the ultimate decision-maker regarding such issues.

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 and specifically reports if the Monitor believes a decision was unreasonable. Also, within approximately six months of any critical incident, the Manager of Safety issues his or her 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."

TABLE 1.1
DPD OFFICER-INVOLVED SHOOTING CASES PENDING ADMINISTRATIVE
REVIEW AS OF THE END OF THE 4TH QUARTER 2011

Date	Summary	Status
August 6, 2011	A home invasion robber was shot and killed by two officers after committing a serious assault and discharging his firearm in the presence of his victim. The suspect was confronted by officers after leading police on a high-speed chase. The suspect was shot after pointing his firearm at another officer.	<p>A District Attorney "shoot letter" was issued on August 19, 2011, concluding that no criminal charges would be filed against the involved officers. (See: www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm).</p> <p>A Use-of-Force Review Board was convened to review the case and make recommendations to the Chief of Police on October 26, 2011. A public report on the Department's findings is anticipated to be completed on or before February 6, 2012.</p>
October 4, 2011	An officer shot at a domestic violence suspect at the conclusion of a foot pursuit. The suspect was not injured as a result of the shooting.	<p>As the suspect was not shot, no District Attorney "shoot letter" is anticipated.</p> <p>The Homicide reports were completed and made available by the Internal Affairs Bureau for OIM review on November 16, 2011. The OIM made requests for further investigation that were still pending review as of the end of the quarter.</p>
October 18, 2011	An officer shot and killed an armed robbery suspect who pointed his weapon at the officer.	<p>A District Attorney "shoot letter" was issued on November 11, 2011, concluding that no criminal charges would be filed against the involved officer. (See: www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm).</p> <p>The Homicide reports were made available by the Internal Affairs Bureau for OIM review on December 29, 2011. A public report on the Department's findings is anticipated to be completed on or before April 18, 2012.</p>

(TABLE CONTINUED ON THE NEXT PAGE)

TABLE 1.1 (CONT.)

Date	Summary	Status
December 4, 2011	An officer shot and injured a person who reportedly attacked the officer's patrol car with a hammer.	A District Attorney "shoot letter" was issued on December 20, 2011, concluding that no criminal charges would be filed against the involved officer. (See: www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm). Homicide reports were pending completion and submission to the OIM as of the end of the quarter.

**TABLE 1.2
DPD OFFICER-INVOLVED SHOOTING CASES CLOSED
IN THE 4TH QUARTER 2011**

Date	Summary	Status
		None

**TABLE 1.3
DPD IN-CUSTODY DEATH CASES PENDING ADMINISTRATIVE REVIEW AS OF
THE END OF THE 4TH QUARTER 2011**

Date	Summary	Status
July 18, 2011	A man died after being restrained by Denver Zoo security and Denver Police officers.	<p>A District Attorney decision letter was issued on October 21, 2011, concluding that no criminal charges would be filed against the involved officers. (See: www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm).</p> <p>The Homicide reports were completed and made available by the Internal Affairs Bureau for OIM review on October 26, 2011. The OIM made requests for further investigation that were generally complied with by Internal Affairs as of December 6, 2011. A Use-of-Force Review Board was scheduled for January 4, 2012.</p>
December 29, 2011	A domestic violence suspect jumped out of the window of a 7th floor apartment while officers were attempting to locate him.	Homicide reports were pending as of the end of the quarter.

**TABLE 1.4
DPD IN-CUSTODY DEATH CASES CLOSED IN THE 4TH QUARTER 2011**

Date	Summary	Status
October 24, 2011	A domestic violence suspect committed suicide while barricaded against police in his residence.	Homicide reports were submitted to the Internal Affairs Bureau for OIM review on December 1, 2011. The case was declined for further investigation or review. The Monitor concurred with this decision as there was no evidence of any misconduct on the part of the officers involved in the barricade situation.

DENVER SHERIFF DEPARTMENT

IN-CUSTODY DEATH INVESTIGATION AND REVIEW PROTOCOL

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

Once the District Attorney has made a filing decision (in those cases where an officer is alleged to have caused a death), the Homicide reports are submitted to the Sheriff Internal Affairs Bureau for its review and handling. The Sheriff Internal Affairs Bureau will usually conduct additional investigation of the incident as necessary. The OIM monitors any subsequent Internal Affairs investigation to ensure that it is thorough and complete. Once the investigation is deemed complete, it is submitted to the appropriate Division Chief for review and findings.

If the Division Chief finds that the involved officer's actions were in compliance with Sheriff Department policy ("in-policy"), the case is forwarded to the Director of Corrections ("Director"). If the Director agrees there were no policy violations, the case is closed. The OIM reviews the Division Chief's findings and makes recommendations to the Director and the Manager of Safety.

If the Division Chief, the Director, or the Manager of Safety finds that the involved officer's actions were in violation of any Department policy ("out-of-policy"), the case is referred to the Director for a "Pre-Disciplinary Hearing." That hearing is attended by the Department's three Division Chiefs and is chaired by the Director of Corrections. The OIM observes the hearing and the deliberations of the Command Staff. At that hearing, the involved deputy is given the opportunity to present his or her side of the story including any mitigating factors that might exist. After hearing from the involved deputy, the OIM makes disciplinary recommendations to the Director. Both the Director's recommendation and those of the OIM are forwarded to the Manager of Safety for 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.

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.

**TABLE 1.5
DSD IN-CUSTODY DEATH CASES PENDING ADMINISTRATIVE REVIEW AT
THE END OF THE 4TH QUARTER 2011**

Date	Summary	Status
None		

**TABLE 1.6
DSD IN-CUSTODY DEATH CASES
CLOSED IN THE 4TH QUARTER 2011**

Date	Summary	Status
May 28, 2011	In-Custody medical death at the Denver Detention Center.	No policy violations were identified after the completion of a comprehensive internal affairs investigation. The Monitor concurred with the Department's findings.



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Denver Police

**NEW COMPLAINTS,
SUSTAINED FINDINGS,
AND DISCIPLINE**

DENVER POLICE DEPARTMENT (DPD) COMPLAINTS AND ALLEGATIONS

**TABLE 2.1
NEW DPD COMPLAINTS
BY MONTH RECEIVED**

	October 2011	November 2011	December 2011	Total
Citizen	38	35	27	100
Column %	84%	83%	84%	84%
Internal	7	7	5	19
Column %	16%	17%	16%	16%
Total	45	42	32	119

Table 2.1 provides the number of new citizen and internal complaints received during the quarter. Please note that

citizen and internal complaint numbers do not include scheduled discipline cases, such as 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.

**TABLE 2.2
DPD ALLEGATIONS
REPORTED**

Allegation	Citizen Complaint Allegations	Internal Complaint Allegations	Total	Percent
Discourtesy	51	0	51	25%
Improper Procedure - Other	40	5	45	22%
Inappropriate Force	33	1	34	17%
Responsibilities To Serve The Public	28	0	28	14%
Search and Seizure	8	0	8	4%
Conduct Prejudicial	6	1	7	3%
Biased Policing	7	0	7	3%
Failure to Give Name/Badge Number	5	0	5	2%
Discrim., Harassment, and Retaliation	4	1	5	2%
Careless Handling of Dept. Property	0	3	3	1%
Failure to Make or File Reports	1	2	3	1%
Impartial Attitude	1	1	2	1%
Administrative Review	0	2	2	1%
Law Violation-Other	1	0	1	0%
Law Violation - Domestic Violence	0	1	1	0%
Intimidation of Persons	1	0	1	0%
Evidence Handling Procedures	0	1	1	0%
Disobedience of an Order	0	1	1	0%
Total	186	19	205	100%

Table 2.2 shows the types of citizen/internal allegations reported during the quarter.

**TABLE 2.3
SUSTAINED ALLEGATIONS FOR CITIZEN AND INTERNAL
COMPLAINTS BY MONTH CLOSED**

Table 2.3 compares the number of “sustained” to “not sustained” allegations resulting from formal investigations of citizen and internal complaints closed during the quarter.

	October 2011	November 2011	December 2011	Total
Sustained	7	19	19	45
Column %	78%	46%	76%	60%
Not Sustained	2	22	6	30
Column %	22%	54%	24%	40%
Total	9	41	25	75

* Note: “Not sustained” includes those allegations subjected to a formal investigation that resulted in a finding of “unfounded,” “exonerated,” or “not sustained.”

**TABLE 2.4
DENVER POLICE DEPARTMENT MATRIX DEFINITIONS**

Category A

Conduct that has a minimal negative impact on the operations or professional image of the Department.

Category B

Conduct that has more than a minimal negative impact on the operations or professional image of the Department; or that negatively impacts relationships with other officers, agencies or the public.

Category C

Conduct that has a pronounced negative impact on the operations or professional image of the Department, or on relationships with other officers, agencies or the public.

Category D

Conduct substantially contrary to the values of the Department or that substantially interferes with its mission, operations or professional image, or that involves a demonstrable serious risk to officer or public safety.

Category E

Conduct that involves the serious abuse or misuse of authority, unethical behavior, or an act that results in an actual serious and adverse impact on officer or public safety or to the professionalism of the Department.

Category F

Any violation of law, rule or policy which: foreseeably results in death or serious bodily injury; or constitutes a willful and wanton disregard of Department values; or involves any act which demonstrates a serious lack of the integrity, ethics or character related to an officer’s fitness to hold the position of police officer; or involves egregious misconduct substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is to uphold the law; or involves any conduct which constitutes the failure to adhere to any contractual condition of employment or requirement of certification mandated by law.

**TABLE 2.5
DPD DISCIPLINE ON SUSTAINED CITIZEN AND INTERNAL
COMPLAINT ALLEGATIONS CLOSED FOURTH QUARTER 2011**

Case Type	Incident Summary	Rank	Complaint	Finding	Matrix Category	Discipline
Case 1: Citizen	Officers failed to appropriately log a contact, failed to notify dispatch upon completion of a call and failed to treat a complaint of an assault appropriately.	Officer 1	Failure to Make or File Reports	Sustained	Category B - Presumptive	Written Reprimand
			Improper Procedure - Other	Sustained	Category C - Presumptive	2 Days Fined Time
			Improper Procedure - Other	Sustained	Category A - Presumptive	Oral Reprimand
		Officer 2	Failure to Make or File Reports	Sustained	Category B - Presumptive	Written Reprimand
			Improper Procedure - Other	Sustained	Category A - Presumptive	Oral Reprimand
			Improper Procedure - Other	Sustained	Category C - Presumptive	2 Days Fined Time
Case 2: Citizen	Subject officer failed to obtain medical attention for an injured arrestee.	Officer	Improper Procedure - Other	Sustained	Category B - Presumptive	2 Days Fined Time
Case 3: Citizen	The subject officer was convicted of driving while impaired off duty and careless driving (for driving 143 mph in a 55 mph zone).	Officer	Law Violation - DUI	Sustained	Category F - Presumptive	Termination
Case 4: Citizen	The subject officer failed to accurately report a use of force.	Officer	Improper Procedure - Other	Sustained	Category C - Presumptive	2 Days Fined Time
			Misleading or Inaccurate Statements	Sustained	Category D - Aggravated	15 Days Suspended Time
Case 5: Citizen	The subject officer unnecessarily escalated an incident involving a disabled person who failed to immediately comply with an order.	Officer	Responsibilities To Serve The Public	Sustained	Category B - Presumptive	2 Days Fined Time

(TABLE CONTINUED ON THE NEXT PAGE)

**TABLE 2.5
(CONTINUED)**

Case Type	Incident Summary	Rank	Complaint	Finding	Matrix Category	Discipline
Case 6: Citizen	The subject officer failed to immediately notify a supervisor after restraining a person who was resisting arrest.	Technician	Improper Procedure - Other	Sustained	Category B - Presumptive	Written Reprimand
Case 7: Citizen	The subject officer was verbally aggressive and used unnecessary profanity during a traffic stop.	Officer	Discourtesy	Sustained	Category B - Presumptive	2 Days Fined Time
Case 8: Internal	The subject officer allowed his spouse to use his DIA security card to access free parking at the airport on multiple occasions.	Officer	Law Violation-Other	Sustained	Category E - Aggravated	42 Days Suspended Time
			Improper Procedure - Other	Sustained	Category C - Aggravated	5 Days Fined Time
Case 9: Citizen	The subject officers failed to adequately investigate an incident of domestic violence.	Officer 1	Improper Procedure - Other	Sustained	Category C - Presumptive	4 Days Suspended Time
		Officer 2	Improper Procedure - Other	Sustained	Category C - Presumptive	2 Days Fined Time
Case 10: Citizen	The subject officer stranded a family in an area without services.	Officer	Responsibilities To Serve The Public	Sustained	Category B - Aggravated	6 Days Fined Time
Case 11: Internal	The subject officer lost a department issued cell phone.	Officer	Rough/Careless Handling of Departmental Property	Sustained	Category B - Presumptive	Written Reprimand
Case 12: Internal	The subject officer accidentally discharged his firearm off duty, resulting in injury to himself.	Detective	Improper Procedure - Other	Sustained	Category C - Mitigated	Written Reprimand
Case 13: Internal	The subject officer unnecessarily intimidated a civilian worker during a work-related argument.	Detective	Improper Procedure - Other	Sustained	Category C - Aggravated	6 Days Fined Time
Case 14: Internal	The subject officer sent an email with inappropriate language to a subordinate.	Captain	Respect for Fellow Officer	Sustained	Category B - Aggravated	5 Days Fined Time
			Improper Procedure - Other	Sustained	Category C - Presumptive	2 Days Fined Time

(TABLE CONTINUED ON THE NEXT PAGE)

**TABLE 2.5
(CONTINUED)**

Case Type	Incident Summary	Rank	Complaint	Finding	Matrix Category	Discipline
Case 15: Internal	The subject officer engaged in unauthorized pursuit and forced stop of vehicle that evaded a traffic stop.	Officer	Improper Procedure - Pursuit	Sustained	Category B - Presumptive	Written Reprimand
Case 16: Internal	The subject officer appeared in uniform while appearing before a Traffic Magistrate on personal business.	Technician	Improper Procedure - Other	Sustained	Category C - Presumptive	2 Days Fined Time
Case 17: Internal	The subject officer inappropriately authorized a short pursuit of a narcotics suspect based solely on a traffic violation.	Sergeant	Improper Procedure - Pursuit	Sustained	Category A - Presumptive	Oral Reprimand
Case 18: Citizen	The subject officer used unnecessary profanity during a contact relating to a child custody dispute.	Officer	Discourtesy	Sustained	Category A - Presumptive	Written Reprimand
Case 19: Internal	The subject officer damaged the instrument panel of patrol car.	Corporal	Rough/Careless Handling of Departmental Property	Sustained	Category A - Presumptive	Written Reprimand
Case 20: Citizen	The subject officer accidentally discharged his firearm while searching a residence for a potentially armed suspect.	Technician	Improper Procedure - Other	Sustained	Category C - Presumptive	2 Days Fined Time
Cases 21 & 22: Internal	The subject officer was convicted of driving while impaired after striking a parked vehicle. The subject officer was in possession of a firearm. The subject officer had a prior conviction for Driving Under the Influence of Alcohol and refused an order from Internal Affairs to provide a chemical sample.	Sergeant	Law Violation - DUI	Sustained	Category D - Extraordinary Aggravation	Termination
			Drinking to Excess	Sustained	Category C - Extraordinary Aggravation	Termination
			Law Violation- Other	Sustained	Category D - Extraordinary Aggravation	Termination
			Disobedience of an Order	Sustained	Category F - Presumptive	Termination

(TABLE CONTINUED ON THE NEXT PAGE)

**TABLE 2.5
(CONTINUED)**

Case Type	Incident Summary	Rank	Complaint	Finding	Matrix Category	Discipline
Case 23: Internal	The subject officer was convicted of Driving While Ability Impaired. The officer failed to provide timely notification of his arrest to his supervisor.	Detective	Law Violation - DUI	Sustained	Category D - Aggravated	14 Days Suspended Time
			Improper Procedure - Other	Sustained	Category C - Presumptive	2 Days Fined Time
Case 24: Internal	The subject officer failed to attend court after being served with a subpoena for his appearance as a defendant in a civil case.	Officer	Law Violation- Other	Sustained	Category C - Presumptive	2 Days Fined Time
Case 25: Internal	The subject officers violated the department's pursuit policy.	Officer	Improper Procedure - Pursuit	Sustained	Category A - Presumptive	Oral Reprimand
		Officer	Improper Procedure - Pursuit	Sustained	Category A - Mitigated	1 Day Fined Time
Case 26: Internal	The subject officer left the scene prior to the completion of a case investigation.	Sergeant	Improper Procedure - Other	Sustained	Category B - Presumptive	Written Reprimand
Case 27: Internal	The subject officer took home a vehicle without authorization to do so.	Captain	Improper Procedure - Other	Sustained	Category B - Presumptive	Written Reprimand

TABLE 2.6
DPD COMMENDATIONS RECEIVED IN THE
FOURTH QUARTER OF 2011

DPD commendation information for the fourth quarter of 2011 was unavailable as of January 6th, 2012. The web version of this report will be updated when commendation information becomes available.



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**NEW COMPLAINTS,
SUSTAINED FINDINGS,
AND DISCIPLINE**

DENVER SHERIFF DEPARTMENT (DSD)

COMPLAINTS AND ALLEGATIONS

TABLE 3.1
NEW DSD INTERNAL AFFAIRS COMPLAINTS
BY MONTH RECEIVED

Table 3.1 reports the number of internal affairs complaints filed during the quarter. Please note that these figures do not include complaints against civilian employees or division-level personnel complaints filed by a deputy's direct supervisor.

Month	Frequency	Percentage
October 2011	15	33%
November 2011	14	31%
December 2011	16	36%
Total	45	100%

TABLE 3.2
DSD INTERNAL AFFAIRS COMPLAINT ALLEGATIONS
BY MONTH RECEIVED

Table 3.2 provides a breakdown of the DSD internal affairs complaint allegations filed during the quarter.

Allegations	Oct. 2011	Nov. 2011	Dec. 2011	Total
Excessive Force	0	2	2	4
Column %	0%	10%	12%	8%
Improper Conduct	1	1	1	3
Column %	7%	5%	6%	6%
Improper Procedure	8	6	7	21
Column %	53%	30%	41%	40%
Law Violation	0	5	1	6
Column %	0%	25%	6%	12%
Lost Property	2	2	2	6
Column %	13%	10%	12%	12%
Service Complaint	4	4	3	11
Column %	27%	20%	18%	21%
Other	0	0	1	1
Column %	0%	0%	6%	2%
Total	15	20	17	52

**TABLE 3.3
SUSTAINED ALLEGATIONS FOR INTERNAL AFFAIRS CASES
BY MONTH CLOSED**

	Oct. 2011	Nov. 2011	Dec. 2011	Total
Sustained	14	16	2	32
Column %	38%	57%	100%	48%
Not Sustained*	23	12	0	35
Column %	62%	43%	0%	52%
Total	37	28	2	67

* Note: "Not sustained" includes allegations subjected to a full formal investigation that resulted in a finding of "unfounded," "exonerated," or "not sustained."

**OUTCOMES ON SUSTAINED INTERNAL AFFAIRS AND
REPRIMAND COMPLAINTS**

The next two tables provide descriptive information on sustained reprimand and internal affairs cases closed during the quarter. For reprimand cases, which are complaints issued by a deputy's direct supervisor (and which are not investigated by Internal Affairs), we report the allegation type and the disciplinary outcome (Table 3.4). For complaints investigated by Internal Affairs, we report the case type, number of officers involved, rank, complaint type, incident summary, finding, and discipline imposed for cases closed during the quarter (Table 3.5).

**TABLE 3.4
DISCIPLINARY OUTCOMES ON SUSTAINED SHERIFF
DEPARTMENT REPRIMANDS
CLOSED IN THE 4TH QUARTER 2011**

Complaint Description	Written	Verbal	Cautionary Letter
Failure to Participate in Firearms Program	0	2	0
Negligent Operation of Laundry Equipment	0	1	0
Total	0	3	0

TABLE 3.5
DISCIPLINE ON SUSTAINED INTERNAL AFFAIRS CASES
CLOSED IN THE 4TH QUARTER 2011

Case	Rank	Complaint	Incident Summary	Finding	Matrix Category	Discipline	Days Suspended
Case 1	Deputy 1	Improper Conduct	Subject deputies got involved in an un-professional verbal argument in front of inmates.	Sustained	PreMatrix	Written Reprimand	
	Deputy 2	Improper Conduct		Sustained	PreMatrix	Written Reprimand	
Case 2	Deputy	Improper Conduct	Deputy urinated in a sink while on duty and used an unauthorized cell phone inside a custodial facility.	Sustained	PreMatrix	Suspension	5 days
		Improper Procedure		Sustained		Written Reprimand	
Case 3	Deputy	Improper Conduct	Deputy unnecessarily brandished a firearm while off duty.	Sustained	PreMatrix	Written Reprimand	
Case 4	Deputy	Law Violation	Deputy engaged in a physical altercation off duty.	Sustained	PreMatrix	Verbal Reprimand	
Case 5	Deputy	Improper Conduct	Deputy failed to treat another deputy with appropriate respect during an on-duty disagreement.	Sustained	PreMatrix	Verbal Reprimand	
Case 6	Deputy	Improper Conduct	Deputy failed to treat another deputy with appropriate respect during an on-duty disagreement.	Sustained	PreMatrix	Written Reprimand	
Case 7	Captain	Improper Conduct	Sheriff Captain made inappropriate sexual comments to another Sheriff Captain.	Sustained	PreMatrix	Suspension	75 days
Case 8	Deputy	Improper Procedure	Deputy failed to call or show up for a shift.	Sustained	PreMatrix	Written Reprimand	
Case 9	Deputy	Improper Procedure	Deputy slept on duty in a control center in a custodial facility.	Sustained	PreMatrix	Suspension	10 Days
Case 10	Deputy	Law Violation	Deputy was convicted of unlawful hunting off duty.	Sustained	PreMatrix	Written Reprimand	

(TABLE CONTINUED ON THE NEXT PAGE)

TABLE 3.5 (CONT.)

Case	Rank	Complaint	Incident Summary	Finding	Matrix Category	Discipline	Days Suspended
Case 11	Deputy	Improper Procedure	Deputy failed to pay his "fair share" to the bargaining unit in a timely fashion.	Sustained	Presumptive Category B	Written Reprimand	
Case 12	Captain	Improper Procedure	Sheriff Captain sent inappropriate emails to other Department members.	Sustained	Aggravated Category A with prior disciplinary history	Suspension	5 Days
Case 13	Deputy	Excessive Force	Deputy used inappropriate force against an inmate, wrote a false report, and lied during the course of the investigation.	Sustained	Presumptive Category F	Termination	
		Improper Procedure		Sustained		Termination	
		Law Violation		Sustained		Termination	
		Improper Conduct		Sustained		Termination	
Case 14	Deputy	Improper Procedure	Deputy used unauthorized leave after having been previously disciplined for similar violations.	Sustained	Presumptive Category C w/ prior disciplinary history	Suspension	3 days
Case 15	Deputy	Improper Conduct	Deputy was involved in a preventable traffic collision causing minor damage.	Sustained	Presumptive Category A	Verbal Reprimand	
Case 16	Deputy	Improper Procedure	Deputy lost his weapon outside of the custodial facility.	Sustained	Mitigated Category C	Written Reprimand	
Case 17	Deputy	Improper Procedure	Deputy was involved in a preventable traffic collision causing minor damage.	Sustained	Presumptive Category A	Verbal Reprimand	
Case 18	Deputy	Improper Procedure	Deputy was involved in a preventable traffic collision causing minor damage.	Sustained	Presumptive Category A	Verbal Reprimand	
Case 19	Deputy	Improper Procedure	Subject Deputy was involved in a preventable collision.	Sustained	Presumptive Category A	Verbal Reprimand	

TABLE 3.6
DSD COMMENDATIONS 2011¹

Commendations	Calendar 2011	2011 Percent
Commendations (from Supervisors/Director)	71	38%
Letters of Appreciation (from Supervisors/Director)	65	34%
Employee of the Month (Downtown)	12	6%
Employee of the Month (COJL)	12	6%
Employee of the Quarter (DSD)	4	2%
Community Service Award	4	2%
Life Saving Award	4	2%
#1 Academic Award	2	1%
#1 Defensive Tactic Award	2	1%
#1 Physical Fitness Award	2	1%
Most Improved Physical Fitness	2	1%
Top Gun	2	1%
Valedictorian	2	1%
Commendation Award	2	1%
Merit Award	2	1%
Academy Medal	1	1%
Purple Heart	0	0%
Distinguished Service Award	0	0%
Medal of Valor	0	0%
Total	189	100%

¹ Commendation counts were provided by the Denver Sheriff Department.



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Chapter 4
MONITOR CONCERNS
REGARDING THE
SUFFICIENCY OF DPD
INTERNAL AFFAIRS BUREAU
CASE HANDLING

MONITOR CONCERNS REGARDING THE SUFFICIENCY OF DENVER POLICE DEPARTMENT INTERNAL AFFAIRS BUREAU CASE HANDLING DURING THE 4TH QUARTER OF 2011

INTRODUCTION

During the course of the last quarter of 2011, the Monitor had concerns about the sufficiency of a number of internal affairs investigations handled by the Denver Police Department.

CASE SPECIFIC ISSUES AND CONCERNS

CASE 1

In a case involving an officer who was disciplined by the Department for inappropriate force and "Commission of a Deceptive Act," the Internal Affairs Bureau investigator failed to identify two witness officers during the initial investigation, even though there was adequate documentation immediately available to allow for their identification.

In this case, the complainant alleged that officers had refused to take his assault complaint and that he had been placed in a choke hold by the officer (who was eventually disciplined), thrown to the ground, handcuffed, verbally berated, and then released. The complainant further alleged that two uniformed patrol officers had witnessed the entire incident.¹

The two officers, working as partners assigned to a single patrol car, had completed a log sheet which identified them as having been present near the location and time of an incident where the complainant alleged he had been assaulted. The officers also matched the descriptions provided by the complainant and one of the witnesses to the event. The log sheet, which was in the possession of the internal affairs investigator, was not included in the internal affairs file and, thus, was unavailable for review by the Monitor's Office.

The result of the failure to immediately identify the witness officers in this case was that the witness officers were not identified until almost two years after the incident and only after the Chief of Police ordered the case to be re-opened and additional investigation to be conducted by a newly assigned investigative team. Even though there was reason to believe that the two officers witnessed the other officer's use of inappropriate force and then lied when confronted by Internal Affairs, the delay in the amount of time between the incident and the interviews of the witness officers made it impossible to prove or disprove whether they were intentionally deceptive or merely had faulty memories. As such, the Monitor felt compelled to defer to the Department's decision to "not sustain" the officers for the allegation that they had lied to Internal Affairs.

In addition to the original inadequate internal affairs investigation, the command review of this significant case was untimely. Although the additional investigation ordered to be conducted by the Chief was handled in a timely fashion, the original command review of the case was delayed until after the original officer's Civil Service appeal was resolved (a delay of approximately two months). The subsequent command review of the case took seven months² and originally failed to even address whether the officers had lied to Internal Affairs.

¹ See Monitor's 1st Quarter Report for 2011 ("Appendix A, pages 1-6) for a more detailed description of the facts underlying the discipline of the original subject officer. (Located at: [www.denvergov.org/oim\[reports\]](http://www.denvergov.org/oim[reports])).

² The Department previously agreed upon a goal of completing all command reviews of formal internal affairs investigations within 45 days of the completion of the investigation.

CASE 2

An investigation was completed involving an officer who allegedly stranded a family on the side of a highway (where there were no available services) after ordering them not to drive following a traffic stop where they were unable to provide proof of insurance. During the course of the investigation into the complaint, it was determined that the officer had made statements to his supervisors that were not only inconsistent with the complainants' statements but also inconsistent with a tape-recorded conversation he had with his supervisor shortly after having completed the traffic stop. As such, an allegation of "Commission of a Deceptive Act" was added to the investigation.

A significant issue in the investigation was whether the complainants had, in fact, driven away from the traffic stop shortly after the officer left the scene or whether they were, in fact, stranded for approximately 45 minutes (as they claimed) before the subject officer's supervisor gave them permission to drive home. The officer claimed multiple times that the complainants had, in fact, driven away within 5-10 minutes of the completion of the traffic stop.³

In order to conclusively prove or disprove this issue, the Monitor requested that Internal Affairs ask the complainants for permission to obtain cell tower records from their cellular phone carrier which would have likely established where they were located during the period immediately after the traffic stop. Internal Affairs refused to conduct this additional investigation and the case was subsequently submitted for command review.

The Manager of Safety subsequently decided not to sustain the officer for the "Commission of a Deceptive Act" violation, which would have called for a presumptive penalty of termination and, instead, imposed discipline in the form of 6 fined days⁴ for the officer's failure to adequately serve the public.⁵ The Monitor believes that there was sufficient evidence to conclude that the officer had lied during the course of the investigation (even in the absence of the cell tower information) and, therefore, that the officer should have been terminated for the "Commission of a Deceptive Act" violation.

At any point in time during the command review process (even at the point the case was under review by the Manager of Safety), the Department could have requested that the cell tower information be obtained. The "not sustained" finding was made, however, without any attempt having been made to obtain these conclusive records.

CASE 3

In a case involving a videotaped encounter, a woman complained about the conduct of an officer who confronted her after she did not immediately open a security door for officers responding to a call for service in her secure apartment building. During the course of the investigation, a Sergeant newly assigned to the Internal Affairs Bureau attempted to explain away the officer's conduct to the complainant and witnesses and also asked leading and suggestive questions evidencing bias in favor of the subject officer.⁶

³ The officer claimed that he had driven by the location of the stop 5-10 minutes after the stop was completed and that the complainants were no longer there.

⁴ A "fine of six days" is equivalent to the loss of six vacation days.

⁵ Rule & Regulation 127 reads as follows: "Members shall serve the public by direction, counsel, and in other ways that do not interfere with the discharge of their police responsibilities. They shall respect the rights of individuals and perform their services with honesty, zeal, courage, discretion, fidelity, and sound judgment."

⁶ For example, while interviewing the complainant, the Internal Affairs Sergeant began lecturing her: "I think they just needed to get in...they obviously have a right to come in." The Sergeant also told the complainant: "I am telling you this: they may have a legal reason for asking your name...I from my perspective...again, he's trying to identify you." As an example of a leading question, the Sergeant asked a witness: "Did it appear the officer was trying to control her and she was escalating?"

The original investigative summary provided further evidence of the investigator's bias and failed to include relevant statements made by the complainant and witnesses that tended to establish the subject officer's culpability. The biased and insufficient case summary was submitted to the OIM for approval by an IAB supervisor who subsequently argued in favor of the officer's exoneration. The officer was eventually sustained for misconduct and appropriately disciplined by the Manager of Safety.

IAB command staff counseled the investigating Sergeant on proper techniques. Nevertheless, this case identified a systemic issue in Internal Affairs whereby Sergeants have been assigned to significant case investigations without adequate training and their case investigations have been submitted for OIM review without adequate supervisory review.

MONITOR'S DECISION TO NOT CERTIFY AN IAB INVESTIGATION AS "THOROUGH & COMPLETE"

In a case involving serious allegations of misconduct, the OIM has declined to certify an IAB investigation as "thorough and complete" as per the requirements of the OIM ordinance.

A review of the internal affairs investigation disclosed such leading and suggestive questions proffered by case investigators to the subject officer and witnesses (including providing the subject officer and witnesses with inaccurate information) that the Monitor concluded that any command findings in the case as to the "Commission of a Deceptive Act" specification had the potential of being negatively impacted by the investigation.

Normal IAB practices were not followed in this case. For example, investigative staff failed to interview all necessary witnesses before interviewing the subject officer. This action resulted in inaccurate information being provided to the subject officer during his interview and required that a re-interview of the subject officer be conducted months later which potentially impacted his ability to recollect. In addition, the investigating officers exhibited significant bias in favor of the subject officer indicating during the course of their questioning, and before all the facts had been obtained, that they believed there was no inappropriate intent on the part of the subject officer. In addition, the original case summary, prepared by an IAB command officer, violated generally accepted guidelines by failing to include relevant facts and by containing biased comments.⁷

Even with such significant deficiencies, the OIM had to appeal to the Chief's Office to have the investigative report changed and additional investigation conducted.

Based on the Monitor's refusal to certify the investigation and a conclusion that no further investigation was reasonably likely to correct the original deficiencies, the case has been submitted for command review without any further action to be taken by the OIM.

⁷ See, "Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice," published by United States Department of Justice, Office of Community Oriented Policing Services, which makes the following recommendations as to the content of internal affairs investigative summaries: "Investigative Report Standards: To achieve the investigative mission, each investigative report should meet these minimum standards: 1. All allegations are clearly stated and clearly answered. 2. All relevant facts bearing on the truth of each allegation are clearly stated.".. 5. The report is impartial with no bias for or against any party." (Section 3.9, page 36).

MONITOR'S CONCERNS REGARDING AN UNTIMELY AND, AT PRESENT, INADEQUATE INVESTIGATION

In a serious case involving allegations of false reporting and perjury under oath, the Denver Police Department refused to order a subject officer and a witness officer to provide limited personal cell phone records which would conclusively establish the truth or falsity of material statements made by the subject officers. The Monitor brought this issue to the attention of the Manager of Safety's Office in August of 2011. On January 4, 2012, the Monitor was informed that on December 29, 2011, the Department ordered the officers to provide their cell phone records to Internal Affairs. The case, one of the oldest pending cases in the Department (now approaching its second anniversary) continues to be on hold at the IAB investigatory level until the officers comply with the IAB order. In the meantime, the subject officers have been left in their current patrol assignment making arrests, writing reports and testifying in court while the investigation continues to languish.

LACK OF TIMELINESS IN THE DPD COMMAND REVIEW PROCESS

As of the end of 2011, twelve formal internal affairs investigations (involving twenty officers) were overdue for findings to be made by DPD Command Staff.

After the completion of a formal internal affairs investigation, the investigation is forwarded to the involved officers' District or Bureau to make findings as to whether any misconduct is provable against the involved officers (this is called a "command review"). The Department has previously agreed to a 45 day goal for the completion of command reviews.

As of December 30, 2011, cases that were overdue ranged from being out at the District from 46 days to a high of 177 days. The average number of days for overdue cases still out for command review was 103 days (more than twice the amount of time allowed for by the Department's timeliness goal). District 6 had the largest number of outstanding command reviews: five cases involving seven officers.

The untimely handling of internal affairs investigations negatively impacts officers and community members alike and has the potential of negatively impacting the credibility of the complaint handling and disciplinary process as a whole. As such, the Chief of Police and the Manager of Safety need to take action to ensure that command reviews which are currently overdue are addressed as soon as possible and that the completion of timely command reviews is identified as a significant part of a command officer's performance goals.

CONCLUSION

The Monitor's Office has noted, during the past year, that there has been a high level of resistance to OIM recommendations intended to ensure thorough and complete investigations and appropriate documentation of those investigations. The problems identified in the above-noted cases relate to basic investigative steps that should have been taken, but were not. Bias on the part of Internal Affairs Bureau investigators and supervisors has been documented in many cases over the past year. As such, the Internal Affairs Bureau staffs' actions could reduce the likelihood, in certain cases, of officers' receiving discipline pursuant to the new Disciplinary Matrix.

It is the opinion of the Monitor that these cases evidence substantial problems in the way the Denver Police Department is currently policing itself. The Manager of Safety and the new Chief of Police must change the current culture in Internal Affairs to ensure unbiased, thorough and complete investigations and the appropriate documentation of such investigations.

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