



DENVER
The Mile High City

*Police and Sheriff
Discipline and Critical Incident Report*

Second Quarter 2011

Office of the
Independent Monitor

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Independent Monitor



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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 2ND QUARTER 2011**

Date	Summary	Status
<hr/> <p style="text-align: center;">None</p> <hr/>		

**TABLE 1.2
DPD IN-CUSTODY DEATH CASES PENDING ADMINISTRATIVE REVIEW AS OF
THE END OF THE 2ND QUARTER 2011**

Date	Summary	Status
<hr/> <p style="text-align: center;">None</p> <hr/>		

TABLE 1.3
OFFICER-INVOLVED SHOOTING AND IN-CUSTODY DEATH CASES CLOSED IN
THE 2ND QUARTER 2011

Date	Summary	Status
July 2, 2010	Two officers shot at a suspect who was shooting a weapon while in the midst of a bar “out-crowd.” An innocent bystander was wounded.	<p>A District Attorney shooting letter was issued on July 26, 2010, 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 Bureau investigation was submitted to Internal Affairs on July 21, 2010. Due to issues relating to tactics, training and the use of unapproved ammunition, additional investigation by Internal Affairs was conducted. A Use-of-Force Review Board was conducted on December 17, 2010, and the shooting itself was found to be “in policy.” The Monitor agreed with that finding as the suspect was shooting a firearm in the midst of a large crowd and the use of lethal force under such a circumstance was warranted. One officer was terminated (see DPD Discipline Report) for possession and use of an unauthorized weapon and possession and use of unauthorized ammunition.</p>

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 1.4
DSD IN-CUSTODY DEATH CASES PENDING ADMINISTRATIVE REVIEW AT
THE END OF THE 2ND QUARTER 2011

Date	Summary	Status
May 28, 2011	In-custody medical death: An inmate in the Denver Detention Center died.	The internal affairs investigation was pending as of the end of the quarter.

TABLE 1.5
DSD IN-CUSTODY DEATHS CASES
CLOSED IN THE 2ND QUARTER 2011

Date	Summary	Status
July 9, 2010	In-Custody Death: An inmate died after deputies used force to subdue him after he failed to immediately follow an order to go into a holding cell.	<p>The District Attorney issued a public report on September 28, 2010, announcing that no criminal charges would be filed against the involved deputies. See: www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm.</p> <p>A public report from the Manager of Safety was issued on May 9, 2011. See: www.denvergov.org/safety. The Monitor concurred with the Manager's conclusions that no policy violations were identified. The Monitor also agreed to participate in a Use-of-Force Task Force, to be commissioned by the Director of Corrections, to conduct a comprehensive evaluation of the Sheriff Department's current use-of-force policies and protocols.</p>
November 23, 2010	In-Custody Suicide: An inmate in the county jail committed suicide.	The internal affairs investigation was completed and no policy violations were identified. The Monitor concurred with the Department's resolution of the case.



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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

Complaint Type	April 2011	May 2011	June 2011	Total
Citizen	35	40	45	120
Column %	81%	75%	92%	83%
Internal	8	13	4	25
Column %	19%	25%	8%	17%
Total	43	53	49	145

Table 2.1 provides the number of new citizen and internal complaints received in the second quarter of 2011. 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	Internal	Total	Percent
Inappropriate/Unnecessary Force	44	5	49	21.7%
Discourtesy	48	0	48	21.2%
Improper Procedure - Other	30	13	43	19.0%
Responsibilities To Serve The Public	36	1	37	16.4%
Administrative Review	12	2	14	6.2%
Mistreatment of Prisoners/Suspects	7	0	7	3.1%
Conduct Prejudicial	5	1	6	2.7%
Rough/Careless Handling of Departmental Property	0	4	4	1.8%
Impartial Attitude	4	0	4	1.8%
Respect for Fellow Officer	0	3	3	1.3%
Law Violation-Other	1	2	3	1.3%
Giving Name and Badge Number	2	0	2	0.9%
Discrimination, Harassment, and Retaliation	2	0	2	0.9%
Law Violation - DUI	0	1	1	0.4%
Failure to Make or File Reports	1	0	1	0.4%
Drinking to Excess	0	1	1	0.4%
Disobedience of an Order	0	1	1	0.4%
Total	192	34	226	100.0%

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 for the second quarter of 2011.

	April 2011	May 2011	June 2011
Sustained	22	26	11
Column %	56%	68%	65%
Not Sustained*	17	12	6
Column %	44%	32%	35%
Total	39	38	17

* 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 2ND QUARTER 2011**

Case Type	Rank	Incident Summary	Complaint	Finding	Matrix Category	Discipline
Case 1: Citizen	Officer	Officer used excessive force in taking complainant down to the ground and beating him with a sap. Officer subsequently wrote a false statement of probable cause and lied to Internal Affairs about the incident.	Inappropriate Force	Sustained	Presumptive Category E	30 Suspended Days
			Commission of a Deceptive Act	Sustained	Presumptive Category F	Dismissed
	Sergeant	Sergeant failed to adequately investigate a use-of-force incident wherein officers used inappropriate force.	Conduct Prejudicial	Sustained	Aggravated Category C	4 Fined Days
	Corporal	Officer lied to Internal Affairs, attempting to justify another officer's use of inappropriate force.	Commission of a Deceptive Act	Sustained	Presumptive Category F	Dismissed
Case 2: Internal	Officer 1	Officer attempted to use his/her law enforcement status, off duty, in support of a personal complaint.	Conduct Prejudicial	Sustained	Presumptive Category D	10 Suspended Days
	Officer 2	Officer attempted to use his/her law enforcement status, off duty, in support of a personal complaint.	Conduct Prejudicial	Sustained	Presumptive Category D	10 Suspended Days
Case 3: Internal	Sergeant	Officer was intoxicated off-duty and in possession of a firearm.	Law Violation-Other	Sustained	Aggravated Category D	14 Suspended Days
Case 4: Internal	Detective	Officer was intoxicated, driving a motorcycle off duty, resulting in a crash and serious bodily injury to the off-duty officer. Office was found to be in possession of a firearm at the time of the crash.	Conduct Prohibited by Law	Sustained	Mitigated Category F	90 Suspended Days
			Conduct Prohibited by Law	Sustained	Presumptive Category C	2 Fined Days

(TABLE CONTINUED ON THE NEXT PAGE)

**TABLE 2.5
(CONTINUED)**

Case Type	Rank	Incident Summary	Complaint	Finding	Matrix Category	Discipline
Case 5: Citizen	Officer 1	Officer used inappropriate force (including striking & macing) multiple individuals. Officer was discourteous to complainants and failed to identify himself upon a reasonable request. Officer subsequently lied to Internal Affairs about his use of inappropriate force.	Inappropriate Force	Sustained	Presumptive Category E	30 Suspended Days
			Giving Name and Badge Number	Sustained	Aggravated Category A	2 Fined Days
			Discourtesy	Sustained	Aggravated Category B	5 Fined Days
			Commission of a Deceptive Act	Sustained	Presumptive Category F	Dismissed
Case 5: Citizen	Officer 2	Officer used inappropriate force by unnecessarily grabbing the complainant and taking her to the ground. Officer unnecessarily escalated a conflict with the complainants. Officer subsequently lied to Internal Affairs about the incident.	Inappropriate Force	Sustained	Presumptive Category D	10 Suspended Days
			Commission of a Deceptive Act	Sustained	Presumptive Category F	Dismissed
			Responsibilities To Serve The Public	Sustained	Aggravated Category B	3 Fined Days
Case 6: Internal	Officer	Off-duty officer was arrested for DUI, found to be in unlawful possession of a firearm, was discourteous to arresting officers and attempted to obtain preferential treatment from the arresting officers. (See Chapter 4 for Monitor concerns regarding imposition of discipline in this case).	Conduct Prohibited by Law	Sustained	Aggravated Category D	16 Suspended Days
			Conduct Prohibited by Law	Sustained	Presumptive Category D	10 Suspended Days
Case 7: Internal	Detective	The subject officer was found in contempt of court in a civil proceeding and sentenced to jail.	Law Violation-Other	Sustained	Presumptive Category F	Dismissed
			Conduct Prejudicial	Sustained	Presumptive Category F	Dismissed
Case 8: Citizen	Sergeant	Sergeant used unnecessary force in apprehending a jaywalker.	Inappropriate Force	Sustained	Presumptive Category D w/prior discipline	30 Suspended Days

(TABLE CONTINUED ON THE NEXT PAGE)

**TABLE 2.5
(CONTINUED)**

Case Type	Rank	Incident Summary	Complaint	Finding	Matrix Category	Discipline
Case 9: Citizen	Officer	Officer failed to adequately document a use of force and unnecessarily forced the complainant out of his vehicle.	Improper Procedure - Other	Sustained	Aggravated Category B	1 Fined Day
			Responsibilities To Serve The Public	Sustained	Presumptive Category B	Written Reprimand
Case 10: Internal	Officer	Off-duty officer was arrested for Driving Under the Influence of Alcohol and unnecessarily showed his Police ID at the time of the traffic stop.	Law Violation-Other	Sustained	Aggravated Category D	14 Suspended Days
Case 11: Citizen	Sergeant	Sergeant failed to document a use-of-force investigation.	Failure to Make or File Reports	Sustained	Presumptive Category B	Written Reprimand
Case 12: Citizen	Officer	Officer used an unauthorized weapon and unauthorized ammunition during an officer-involved shooting. Officer also failed to wear badge and vest as per Operations Manual.	Improper Procedure - Other	Sustained	Presumptive Category F	Dismissed
			Improper Procedure - Other	Sustained	Presumptive Category E w/prior Discipline	60 Suspended Days
			Conduct Prejudicial	Sustained	Presumptive Category F	Dismissed
			Improper Procedure - Other	Sustained	Presumptive Category B w/prior Discipline	2 Fined Days
			Improper Procedure - Other	Sustained	Presumptive Category A w/prior Discipline	Written Reprimand
Case 13: Internal	Officer	Off-duty officer was rude during a traffic stop and attempted to obtain preferential treatment.	Conduct Prejudicial	Sustained	Pre-Matrix	30 Days Suspended Held in Abeyance
Case 14: Citizen	Officer	Officer used unnecessary profanity while conducting traffic enforcement.	Discourtesy	Sustained	Presumptive Category B w/prior Discipline	2 Fined Days

(TABLE CONTINUED ON THE NEXT PAGE)

**TABLE 2.5
(CONTINUED)**

Case Type	Rank	Incident Summary	Complaint	Finding	Matrix Category	Discipline
Case 15: Citizen	Officer	Officer attended a concert without authorization while on-duty and in-uniform.	Conduct Prejudicial	Sustained	Presumptive Category D w/prior Discipline	30 Days Suspended
Case 16: Citizen	Officer	Officer acted inappropriately upon being advised that the complainant wanted to contact the Internal Affairs Bureau to file a complaint.	Impartial Attitude	Sustained	Presumptive Category B	Written Reprimand
Case 17: Internal	Officer 1	Officer failed to arrest a suspect for trespass relating to a complaint of domestic violence.	Improper Procedure - Other	Sustained	Presumptive Category C w/prior Discipline	3 Days Suspended
	Officer 2	Officer failed to arrest a suspect for trespass relating to a complaint of domestic violence.	Improper Procedure - Other	Sustained	Presumptive Category C	2 Fined Days
Case 18: Internal	Lieutenant	Lieutenant authorized an improper investigation of the Internal Affairs Commander and the Office of the Independent Monitor.	Conduct Prejudicial	Sustained	Aggravated Category E	40 Days Suspended
			Improper Procedure - Other	Sustained		
			Improper Procedure - Other	Sustained		
	Sergeant	Sergeant conducted an inappropriate investigation of the Commander of Internal Affairs and attempted to conduct an inappropriate investigation of the Independent Monitor's Office.	Conduct Prejudicial	Sustained	Presumptive Category E	30 Days Suspended
			Improper Procedure - Other	Sustained		
			Improper Procedure - Other	Sustained		

(TABLE CONTINUED ON THE NEXT PAGE)

**TABLE 2.5
(CONTINUED)**

Case Type	Rank	Incident Summary	Complaint	Finding	Matrix Category	Discipline
Case 19: Internal	Detective	Officer failed to follow-up on a tip regarding a fatal hit and run. Officer subsequently lied to supervisors about receiving the tip and then lied during the course of the internal investigation into the incident.	Misleading or Inaccurate Statements	Sustained	Aggravated Category D	16 Days Suspended
			Improper Procedure - Other	Sustained	Presumptive Category C	2 Fined Days
			Commission of a Deceptive Act	Sustained	Presumptive Category F	Dismissed
Case 20: Internal	Technician	Officer failed to adequately control a K-9 and failed to notify supervisors after the K-9 injured another officer.	Improper Procedure - Other	Sustained	Aggravated Category B	3 Fined Days
			Improper Procedure - Other	Sustained	Aggravated Category B	3 Fined Days
Case 21: Internal	Officer	Officer inappropriately used sick time.	Conduct Prejudicial	Sustained	Mitigated Category B w/prior Discipline	1 Fined Day
Case 22: Citizen	Sergeant	Sergeant was discourteous to complainant and witnesses.	Discourtesy	Sustained	Presumptive Category B	Written Reprimand
Case 23: Internal	Officer	Officer made inappropriate comments to female officers.	Sexual Harassment	Sustained	Presumptive Category C	2 Fined Days
Case 24: Internal	Detective	Detective inappropriately used a decedent's credit card as part of a Homicide investigation.	Failure to Make or File Reports	Sustained	Aggravated Category B	2 Fined Days
Case 25: Internal	Officer	Officer failed to follow an order to provide medical documentation when calling in sick.	Disobedience of an Order	Sustained	Aggravated Category B	2 Fined Days
Case 26: Internal	Technician	Officer failed to issue a citation for marijuana possession and failed to book marijuana into property.	Evidence Handling Procedures	Sustained	Aggravated Category B	1 Fined Day
			Improper Procedure - Other	Sustained	Presumptive Category A	Oral Reprimand

(TABLE CONTINUED ON THE NEXT PAGE)

**TABLE 2.5
(CONTINUED)**

Case Type	Rank	Incident Summary	Complaint	Finding	Matrix Category	Discipline
Case 27: Internal	Detective	Officer accessed inappropriate websites while on duty and while accruing overtime.	Improper Procedure - Other	Sustained	Presumptive Category D	10 Suspended Days
Case 28: Internal	Detective 1	Detective entered an apartment without consent and without a warrant while attempting to identify a sexual assault suspect.	Improper Procedure - Other	Sustained	Presumptive Category B	Written Reprimand
	Detective 2	Detective entered an apartment without consent and without a warrant while attempting to identify a sexual assault suspect.	Improper Procedure - Other	Sustained	Presumptive Category B	Written Reprimand
Case 29: Internal	Officer	Officer damaged a patrol vehicle's instrument panel.	Rough/Careless Handling of Departmental Property	Sustained	Mitigated Category B w/prior Discipline	Written Reprimand



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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 in the second quarter of 2011. 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
April 2011	39	36%
May 2011	32	29%
June 2011	38	35%
Total	109	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 in the second quarter of 2011.

Allegations	April 2011	May 2011	June 2011	Total
Excessive Force	2	1	0	3
Column %	4%	3%	0%	3%
Improper Conduct	5	5	13	23
Column %	11%	16%	33%	20%
Improper Procedure	27	20	14	61
Column %	59%	63%	36%	52%
Law Violation	0	2	2	4
Column %	0%	6%	5%	3%
Lost Property	9	3	5	17
Column %	20%	9%	13%	15%
Service Complaint	1	0	4	5
Column %	2%	0%	10%	4%
Other	2	1	1	4
Column %	4%	3%	3%	3%
Total	46	32	39	117

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

	April 2011	May 2011	June 2011
Sustained	15	16	20
Column %	60%	59%	77%
Not Sustained*	10	11	6
Column %	40%	41%	23%
Total	25	27	26

* Note: "Not sustained" includes allegations subjected to a 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 SECOND QUARTER 2011**

Complaint Description	Written	Verbal	Cautionary Letter
Neglect of Duty In Court Room	0	1	0
Leaving Assigned Post/Not Cooperating with Medical Staff	2	1	0
Total	2	2	0

TABLE 3.5
DISCIPLINE ON SUSTAINED INTERNAL AFFAIRS CASES
CLOSED IN THE SECOND QUARTER

Case	Rank	Incident Summary	Complaint	Finding	Discipline	Days Susp.
Case 1	Sergeant	Sergeant used unauthorized leave after having been disciplined for similar violations previously.	Improper Procedure	Sustained	Suspension	5 days
Case 2	Deputy Sheriff	Deputy used unauthorized leave.	Improper Procedure	Sustained	Written Reprimand	
Case 3	Deputy Sheriff	Deputy used unauthorized leave after having been disciplined for similar violations previously.	Improper Procedure	Sustained	Suspension	5 Days
Case 4	Deputy Sheriff	Deputy used unauthorized leave.	Improper Procedure	Sustained	Written Reprimand	
Case 5	Deputy Sheriff	Deputy used unauthorized leave.	Improper Procedure	Sustained	Written Reprimand	
Case 6	Deputy Sheriff	Deputy used unauthorized leave.	Improper Procedure	Sustained	Written Reprimand	
Case 7	Deputy Sheriff	Deputy entered another County's Courthouse in-uniform on personal business. Deputy falsely represented himself to Courthouse security as having been on duty. Deputy lied to Internal Affairs.	Improper Procedure	Sustained	Suspension	50 Days
Case 8	Deputy Sheriff	Deputy made offensive cartoons relating to another Deputy and using Department equipment and Department insignias.	Improper Conduct	Sustained	Suspension	20 days/ 10 in abeyance
Case 9	Deputy Sheriff	Deputy used unauthorized leave after having received a prior suspension for a similar violation.	Improper Procedure	Sustained	Suspension	15 Days
Case 10	Deputy Sheriff	Deputy used unauthorized leave.	Improper Procedure	Sustained	Verbal Reprimand	
Case 11	Deputy Sheriff	Deputy used unauthorized leave after having been disciplined for similar violations previously.	Improper Procedure	Sustained	Suspension	5 days
Case 12	Deputy Sheriff	Deputy inappropriately assisted an inmate in obtaining bond and subsequently and repeatedly lied to Internal Affairs regarding the incident.	Improper Conduct	Sustained	Termination (Presumptive Category F)	

(TABLE CONTINUED ON THE NEXT PAGE)

**TABLE 3.5
(CONTINUED)**

Case	Rank	Incident Summary	Complaint	Finding	Discipline	Days Susp.
Case 13	Deputy Sheriff	Deputy used unauthorized leave.	Improper Procedure	Sustained	Written Reprimand	
Case 14	Deputy Sheriff	Deputy used unauthorized leave.	Improper Procedure	Sustained	Verbal Reprimand	
Case 15	Deputy Sheriff	Deputy used unauthorized leave.	Improper Procedure	Sustained	Verbal Reprimand	
Case 16	Deputy Sheriff	Deputy used unauthorized leave.	Improper Procedure	Sustained	Written Reprimand	
Case 17	Deputy Sheriff	Deputy used unauthorized leave.	Improper Procedure	Sustained	Verbal Reprimand	
Case 18	Deputy Sheriff	Deputy was in possession of an edged weapon inside a custodial facility.	Improper Procedure	Sustained	Verbal Reprimand	



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Chapter 4

MONITOR CONCERNS REGARDING A DISCIPLINARY DECISION BY THE MANAGER OF SAFETY

Solicitation of Preferential Treatment: Monitor Concerns Regarding a Lenient Disciplinary Decision by the Manager of Safety

Introduction

On April 28, 2011, the Manager of Safety imposed discipline in the form of a 26-day suspension against a Denver Police Officer for the following acts of misconduct: 1) driving under the influence of alcohol (off-duty), 2) unlawful possession of a firearm while intoxicated, and 3) rude and offensive behavior towards the arresting officers, along with blatant attempts to obtain preferential treatment based on his position as a police officer. It is the Monitor's opinion that, while the discipline imposed for the Driving Under the Influence and the Unlawful Weapon Possession was reasonable and within the scope of post-discipline matrix protocol, the discipline for the officer's attempts to obtain preferential treatment was insufficient. It was also inconsistent with prior post-matrix discipline in two other Driving Under the Influence cases.

One purpose of discipline is to provide notice to other employees that certain conduct will not be tolerated. The Manager of Safety and the DPD are currently moving toward changes to DPD disciplinary rules that specifically prohibit off-duty officers from soliciting or demanding preferential treatment from other law enforcement officers. The Monitor believes that this rule change will substantially ameliorate any long-term concerns relating to the decisions made in the case referenced in this report.

Facts of the Case

In this case, the officer drove under the influence of alcohol with a blood alcohol content (BAC) of 0.246% (three times the legal limit of .08%). He subsequently ran off a mountain road and down an embankment. The officer had a loaded firearm in the passenger compartment of his vehicle. After he was informed that he was being arrested for DUI, he made the following comments- all of which were caught on audio tape by the arresting officers:

- "You're an ass***."
- "I'll tell you what, we take care of police. When I used to work in Chicago, we took care of each other. You suck."
- "I hope you feel good about yourselves."
- "But you know what? You're an ass****."
- "I can't believe you guys...I have never f***** another policeman, never in my life. I started in the suburbs of Chicago and I worked in Chicago, Chicago PD, and I now I work in Denver. I have never, never, ever f***** another policeman, and I don't know what you guys do up here. . I have never been f***** by another policeman. I cannot believe this is the way you guys f***** run your department..."
- "I hope you feel good about yourself tonight."
- "You know what? I didn't do anything to any one of you mother f***** haven't done in your lifetime..."

- "...[Y]ou need to f*** our Denver policemen..."
- "You know what? I've worked in two big cities. This is Denver, it's a big city. But you know what? This is not the way we treat, f***** the police, ever."
- "You guys are f***** scum, cold ass*****."

Comparison of Discipline in DUI Cases

In the current case (Case #1), the officer received a 16-day suspension, without pay, for the DUI violation. The officer also received a 10-day suspension for unlawful possession of a firearm. However, the Manager did not treat the officer's demand for special treatment and demeaning language as a separate allegation apart from the DUI. Instead, the Manager imposed discipline within the aggravated range for a DUI called for in the DPD's Discipline Matrix (which calls for a 14-16 day suspension) based on the high blood alcohol content (three times the legal limit of .08% BAC), the bad driving, the offensive comments to the arresting officers, and the attempts to obtain preferential treatment. Since the Manager opted not to use a separate allegation for the officer's demands for special treatment and demeaning language, the discipline imposed in this case does not appear to meaningfully reflect the seriousness of the additional misconduct beyond the DUI and weapon possession.

In comparison, this officer received substantially less discipline than an officer disciplined by then-Manager of Safety Ron Perea for a very similar, but less egregious, DUI arrest (Case #2). In that case, the officer was stopped for speeding (80 mph in a 55 mph zone) and arrested for driving under the influence (off duty) with a blood alcohol content of 0.217%. During the arrest, the off-duty officer begged not to be arrested based on his law enforcement position (he was quoted as having repeatedly said: "please don't f*** me, don't f*** my job.") He did not, however, insult or demean the arresting officer. As a result of this arrest, Manager Perea suspended the officer for 16 days for driving under the influence and imposed a 30 day suspension for "conduct prejudicial" for improperly attempting to obtain preferential treatment based on his position as a law enforcement officer. The officer was also given a 14-day suspension for the unlawful possession of a firearm. Unlike the current case, Manager Perea treated the attempt to obtain preferential treatment as a separate allegation in addition to the DUI violation and imposed discipline for that specific misconduct.

In addition, the discipline imposed in the current case is noticeably light in comparison to another DUI case (Case #3) involving an officer who unnecessarily identified himself as a police officer in order to obtain preferential treatment after being stopped for a DUI. In that case decided by the current Manager on April 21, 2011, the officer received a 14-day suspension. The officer drove with a blood alcohol content of 0.162%, weaved onto the shoulder several times, and showed his DPD identification to the arresting officer immediately upon being stopped, instead of his driver's license. He did this even though he was unarmed and had no legitimate cause to identify himself as a law enforcement officer. For his high blood alcohol content and his attempt to obtain preferential treatment, he received a 14-day suspension, instead of the presumptive penalty of a 10-day suspension. The Monitor concurred that this discipline was reasonable.

When comparing Case #1 and Case #3, however, it becomes clear that the officer in the most recent case received only two additional days of suspension (16-days as opposed to 14-days) despite

having a substantially higher blood alcohol content (0.246% versus 0.162%), having driven his car off the road and down an embankment (versus weaving onto the shoulder of the road), and having insulted the arresting officers and demanded that he not be arrested due to his position as a Denver police officer.

Table 4.1: Comparing Days Suspended for Sustained DUI and Conduct Prejudicial Allegations

Case	Days Suspended per Allegation		Days Suspended for DUI and Conduct Pejudicial	Case Specifics
	DUI	Conduct Prejudicial		
Officer #1 (Current Case)	16 Days	None	16 Days	<ul style="list-style-type: none"> · 0.246% BAC · Ran off road & down embankment · Demanded preferential treatment & demeaned arresting officers
Officer #2	16 Days	30 Days	46 days	<ul style="list-style-type: none"> · 0.217% BAC · Speeding · Requested preferential treatment
Officer #3	14 Days	None	14 Days	<ul style="list-style-type: none"> · 0.162 % BAC · Weaving · Identified self as police officer

The Monitor disagrees with the decision in the current case (Case #1) to use the conduct during the arrest (i.e., demeaning language and demanding preferential treatment) only as an aggravator to the DUI allegation, as opposed to treating these issues as a separate allegation. This is especially problematic since the officer in Case #2 received substantial discipline from Manager Perea for less egregious conduct during arrest, in part because that conduct was addressed under a separate allegation entitled: “Conduct Prejudicial.”

Additionally, the Monitor disagrees with the decision to impose only two more days of suspended time for the DUI violation in the current case in comparison to the officer in Case #3, when the officer in the current case had a significantly higher blood alcohol content, ran his car down an embankment, and demanded preferential treatment, while being verbally abusive, rather than merely identifying himself as a police officer and hoping for preferential treatment.

Conclusion

Although the Monitor believes that the officer in this case received inadequate discipline for his conduct towards the arresting officers, the Monitor is pleased to report that this issue will likely be more appropriately resolved in future cases due to the Manager’s decision to create a new Department Rule specifically prohibiting the solicitation of preferential treatment by a Denver

police officer.¹ With the creation of the new rule, the Department will have a new opportunity to impose appropriate discipline, separate and apart from any underlying criminal violation, upon any officer who attempts to obtain immunity from arrest or prosecution for a criminal act (including a DUI) from another police officer.

¹ New Rule & Regulation No. RR-142 entitled “Soliciting Preferential Treatment” will read as follows: “Officers shall not attempt to use their position as Department members (including displaying a badge or identifying themselves as Department members): (i) to solicit or to attempt to solicit any preferential treatment not extended to the general public; or (ii) to solicit or attempt to obtain any benefit to which they would not otherwise be entitled except in furtherance of official duties or as allowed by Department or City rule, policy, procedure or authorized practice.”



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Chapter 5
MONITOR CONCERNS
REGARDING DPD
DRIVING UNDER THE
INFLUENCE ARRESTS

Arresting Off-Duty Officers for Driving Under the Influence: A Report on DPD Actions to Ensure Adequate Enforcement of DUI Laws

Introduction

Since monitoring of police discipline began in mid-2005, the Monitor has been concerned about ensuring that Denver Police Department officers do not use their police positions to obtain preferential treatment from other law enforcement officers and that those who may commit violations of policy and law relating to the consumption of alcohol and driving under the influence of alcohol are held accountable for those violations. The issue of preferential treatment has recently been dealt with by the Manager of Safety and the DPD by moving toward changes to DPD disciplinary rules that specifically prohibit off-duty officers from soliciting or demanding preferential treatment from other law enforcement officers. In addition, the Manager of Safety is moving towards restricting the ability of off-duty officers to be armed during or after the consumption of alcohol and towards updating the current disciplinary matrix to provide for presumptive termination for officers who commit a second offense of driving under the influence (or driving while ability impaired).

As part of continuing monitoring activities, the Monitor's Office identified an area of concern relating to an absence of arrests of off-duty DPD officers for driving under the influence of alcohol within the City & County of Denver, except where they had been involved in a DUI-related traffic collision. After the Monitor informed Department command staff that there was statistical evidence to believe that on-duty DPD officers may have been providing preferential treatment to off-duty officers who were driving under the influence of alcohol, command staff agreed to take the following actions:

1. The Patrol Division will prepare a Departmental Directive that will require any patrol officer who stops an off-duty police officer who exhibits any sign of potential alcohol intoxication to immediately call a supervisor to the scene. The supervisor will be required to notify the District Commander, in writing, of the results of that call-out, whether or not an arrest is made, and, if no arrest is made, the justification for that decision. All documentation of the call-out will be forwarded to the Internal Affairs Bureau for documentation and monitoring by the Monitor's Office.
2. The Patrol Division will include specific training for all Patrol Sergeants in its curriculum for ongoing, in-service training for supervisors, which will highlight the issues raised in this report as well as other ethical issues relating to the preferential treatment of persons based on their professional affiliation.

Historical Data Suggests that Off-Duty DPD Officers May Not Have Been Arrested in Denver for Driving Under the Influence Unless There Has Been a Traffic Collision

The Monitor has noticed that since monitoring began in 2005, no DPD officer has been arrested for DUI by another DPD officer without having first been involved in a traffic collision (see Table 5.1).¹ Of the five officers who have been arrested in Denver for DUI since 2005, all had been involved in DUI-related traffic collisions. During the same time period, however, ten DPD officers have been arrested for DUI in other jurisdictions, with only two of those arrests ensuing from a traffic collision.

Table 5.1: Comparing DUI Arrests of DPD Officers Involving a Traffic Collision to DUI Arrests of DPD Officers with No Traffic Collision

January 1, 2005 through June 17, 2011

DUI Arrest Type	DPD Officer Arrests in Denver	DPD Officer Arrests in Other Jurisdictions
DUI Arrests with <i>No Traffic Collision</i>	0	8
DUI Arrests with <i>Traffic Collision</i>	5	2
Total	5	10
Ratio of No Collision DUI Arrests to Collision DUI Arrests	0	4:1

These figures differ from DUI arrest patterns for non-DPD community members in Denver. According to the Denver Police Department's Data Analysis Unit, the number of community members arrested for DUI (no collision) in Denver outweighs the number of community member arrests for DUI-related collisions by a ratio of roughly 3.3 to 1 (see Table 5.2).² That is to say, for about every three community member DUI arrests in Denver, there is one community member DUI arrest that involves a traffic collision.³ It is interesting to note that roughly the same ratio of DUI arrests has been observed for off-duty DPD officers arrested in jurisdictions outside of Denver. Specifically, there has been a 4 to 1 ratio of DUI traffic arrests to DUI arrests ensuing from collisions involving off-duty DPD officers in other jurisdictions.

¹ After reviewing the Internal Affairs database going back to 2000, the Monitor was able to identify only one arrest of an off-duty DPD officer (which took place in December 2000), for DUI without a DUI-related collision, in the City and County of Denver.

² The City of Austin, TX has identified almost identical ratios for DUI arrests of community members based on traffic stops versus traffic collisions. Kansas City, MO has a higher ratio of approximately 7 to 1 for DUI arrests as the result of a traffic stop when compared with DUI arrests as the result of a traffic collision.

³ The DUI arrest figures for community members do not include DPD officers arrested for DUI.

Table 5.2: Comparing DUI Arrests of Community Members Involving a Traffic Collision to DUI Arrests with No Traffic Collision

January 1, 2008 through December 31, 2010

DUI Arrest Type	2008	2009	2010
DUI Arrests with <i>No Traffic Collision</i>	3,505	3,106	2,520
DUI Arrests with <i>Traffic Collision</i>	1,040	937	755
Total	4,545	4,043	3,275
Ratio of No Collision DUI Arrests to Collision DUI Arrests	3.4:1	3.3:1	3.3:1

If one were to assume a 3:1 ratio of DUI arrests with no collision to DUI's with a traffic collision, then one could expect roughly 15 DPD officers to have been arrested for DUI with no traffic collision in Denver between January 1, 2005 and June 17, 2011. Yet, not a single DPD officer has been arrested since monitoring began in 2005 (and likely as far back as 2000) by another DPD officer for DUI without having first been involved in a traffic collision. The absence of DPD officer DUI arrests in Denver supports the conclusion that rules need to be put in place to ensure that off-duty DPD officers do not receive preferential treatment in relation to these types of offenses.

The conduct demonstrated by the majority of DPD officers who have been arrested for DUI in other jurisdictions also tends to support the above conclusion. In eight out of the ten DUI arrests outside of Denver since 2005, the off-duty DPD officer engaged in overt actions that could reasonably be interpreted as attempts to obtain preferential treatment. For example, in three cases the off-duty DPD officer made explicit requests for preferential treatment. In four cases, the DPD officers identified themselves as police officers by showing badges or ID cards, even though they were off-duty, unarmed, and had no reason to do so. In the eighth case, the off-duty officer (who was armed) apparently provided his identification to the arresting officer shortly after providing his driver's license and theoretically before he needed to identify himself as being armed.

Conclusion

Based on the above-information, the Monitor has concluded that some DPD officers expect to be treated differently than ordinary citizens during DUI-related traffic stops based on their status as police officers. Moreover, it appears reasonable to conclude that off-duty DPD officers may have, in the past, received preferential treatment by not being arrested for DUI violations when there is no related traffic collision.

Of course, it is important to note that the small number of DUI arrests of off-duty DPD officers in Denver could potentially be explained, in part, by the fact that roughly 75% of all DPD officers live outside the City & County of Denver. The residency issue, however, does not explain the non-existent ratio between DUI traffic stop arrests and DUI-related collisions inside Denver. While the

number of arrests could rationally be expected to be lower inside Denver rather than outside of Denver, the fact that there have been no DUI arrests during the course of traffic stops (apparently since 2000) when compared with DUI-related traffic collisions caused by off-duty DPD officers, leads the Monitor to conclude that on-duty DPD officers have likely given off-duty DPD officers preferential treatment during the course of DUI-related traffic stops.

Given this, the Monitor appreciates the Manager of Safety's decision to implement new disciplinary rules that will prohibit off-duty officers from soliciting preferential treatment from other law enforcement officers. Moreover, based on the willingness of DPD command staff to issue a Directive requiring supervisory intervention into any traffic stop of an off-duty officer involving alcohol and to provide specific training to the supervisors who would respond to such calls, the Monitor is hopeful that the likelihood that DPD officers will receive preferential treatment in such cases will be significantly reduced in the future.

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