



DENVER

THE MILE HIGH
CITY

*OFFICE OF THE INDEPENDENT
MONITOR*

ANNUAL REPORT 2009

RICHARD ROSENTHAL
INDEPENDENT MONITOR



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THE MILE HIGH CITY

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EXECUTIVE SUMMARY

2009

DENVER
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MISSION

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

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

Core Functions of the Monitor's Office

The Monitor's Office "core functions" include:

- Monitoring and reviewing Police and Sheriff critical incident investigations, specifically officer-involved shootings, in-custody deaths and uses of force resulting in great bodily injury or death. (This task includes the monitoring of Use-of-Force Review Board and Tactics Review Board deliberations and recommendations.)
- Monitoring the Police and Sheriff internal affairs decision-making processes to ensure fairness and consistency in the assignment and handling of citizen and internally-initiated complaints and investigations.
- Monitoring and making recommendations regarding formal Police and Sheriff internal investigations to ensure that investigations are thorough, fair and complete.
- Managing the community-police mediation program.
- Monitoring and making recommendations on Police and Sheriff findings after investigations and the imposition of discipline after sustained findings are made. (This task includes the monitoring of the deliberations and recommendations of Disciplinary Review Boards and Pre-disciplinary hearings.)
- Ensuring the citizen complaint process is accessible to the entire community and ensuring community members are aware of how their complaints were handled and why.
- Monitoring the timeliness of the entire complaint handling and disciplinary processes for the Police and Sheriff Departments.

Status of Goals for 2009

At the beginning of 2009, the OIM set certain goals for the year. In general, the OIM was able to achieve or make significant progress towards the implementation of the aforementioned goals.

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

Status of Goal: The PARC report was published and made available to the public in June of 2008. The PARC report found that the Denver Police Department was a leader in the handling of deadly force incidents. The PARC report did, however, make 69 recommendations to further improve deadly force policies and investigations and reviews of critical incidents. The Chief of Police provided a comprehensive response to

the report, agreeing in whole or in part, with 57 of PARC's 69 recommendations. In 2009, the Department finalized substantial changes in its deadly force and less-lethal policies as recommended by PARC. The Monitor believes that the Department has worked in good faith to implement those changes, recommended by PARC and the Monitor, that are best suited to the Department and the needs of the City and the local community.

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

Status of Goal: As of the end of 2008, the OIM Mediation program has facilitated more than 200 community member-police mediations since the mediation program's inception in December of 2005. A total of fifty-five community-police mediations were conducted during the 2009 calendar year. This program continues to be one of the largest in the United States.

Goal: Continue annual evaluations of the Police Department's Personnel Assessment System (PAS), ensure an effective evaluation of officer comparisons, and evaluate the possibility of incorporating demographic data from pedestrian and traffic stops for analysis into the system. (PAS is an early intervention tool which identifies patterns in officer conduct and assists in identifying performance concerns relating to individual officers.)

Status of Goal: The DPD finalized its new Personnel Assessment System (PAS) in early 2008. At the end of each year, the OIM has been given the opportunity to audit the system. The OIM believes that the DPD's early intervention system is one of the best in the country and is operating per expectations.

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

Status of Goal: In 2009, the Manager of Safety created a Disciplinary Advisory Group (DAG) for the Sheriff Department, to create a disciplinary matrix and to create conduct principles and disciplinary guidelines for the Department to use when evaluating conduct and imposing discipline. The Sheriff DAG was created to mirror the reforms previously implemented by the Police Department when its disciplinary matrix was implemented on October 1, 2008.

Goal: Improve the timeliness of imposition of discipline for the DPD in all cases where a sustained finding is made.

Status of Goal: This remains an area in need of significant improvement. The Monitor recommends that the Chief make improvements in timeliness in the imposition of discipline a high priority for 2010.

Goal: Evaluate the DPD's policies, training and practices with respect to responding to "excited delirium" type cases, specifically those resulting in in-custody deaths.

Status of Goal: The Monitor is in the process of compiling and reviewing all policies and protocols as they relate to the Police and Sheriff Departments and the Department of Safety's Combined Communications Center handling of "excited-delirium" type cases (which involve otherwise unexpected deaths, often after physical struggles with police officers.) The Monitor anticipates working with these Departments in an attempt to ensure that the City is engaging in "best practices" to reduce these in-custody deaths as much as possible and to protect the City from liability in the event that a death cannot be avoided.

2010 Goals

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

- Follow up on the implementation of Police Department policy changes to deadly force and less-lethal policies as recommended by the Police Assessment Resource Center (PARC) report and accepted by the Chief of Police;
- Continue the use of the OIM community-police mediation program, one of the largest of its kind in the country, and assist other police agencies in implementing similar programs;
- Conduct annual evaluations of the DPD Personnel Assessment System to ensure effective evaluations of similarly situated officers;
- Ensure the implementation of the Denver Sheriff Department's new disciplinary matrix, reforms to the disciplinary processes, and the creation of an early intervention system;
- Improve the timeliness of imposition of discipline for the DPD in all cases where a sustained finding is made; and,
- Evaluate the DPD's policy, training, and practices with respect to responding to "excited delirium" type cases, specifically those resulting in in-custody deaths and make recommendations for improvements as necessary.

Police Department Monitoring

In 2009, the Denver Police Department received or initiated 1,099 complaints of which 622 were citizen-initiated. The total number of complaints in 2009 increased slightly from the 1,027 complaints received in 2008.

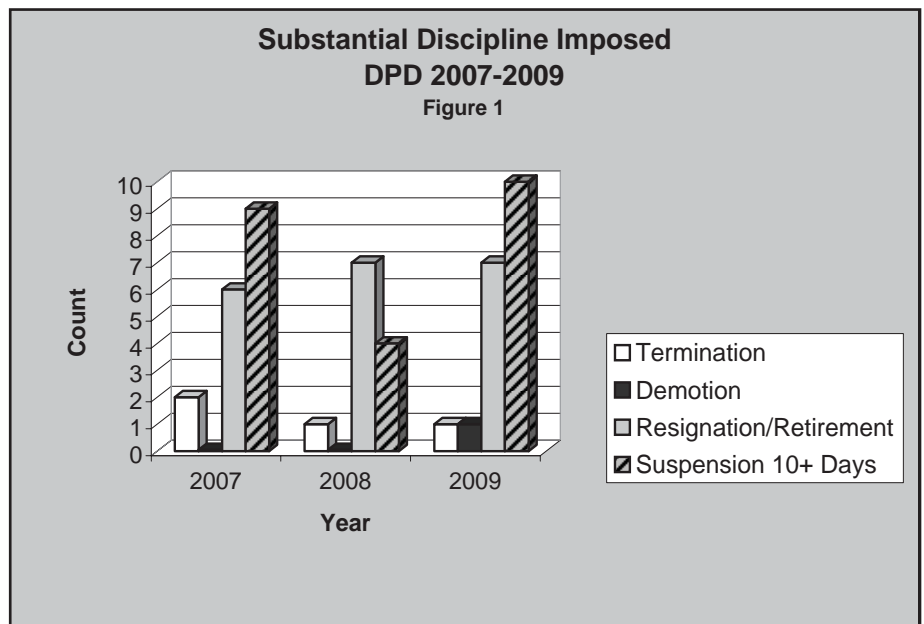
As in prior years, Discourtesy (20.6%), improper procedure (17.8%), and unnecessary and inappropriate force (21.1%) were the three most common allegations involved in citizen/internal complaints.

Figure 1 depicts year-to-year comparisons of substantial discipline imposed by the Police Department over the past three years. This chart includes counts of officers who resigned or retired while serious allegations were pending but prior to the making of a disciplinary decision.

The Police Department is currently headed in the wrong direction with regard to timeliness in the imposition of discipline.

The amount of time it takes for the Police Department to impose discipline remains too long and seems to be getting longer.

Improvements can be made in the timeliness of command reviews, DRB scheduling, Chief Hearing scheduling, and reviews conducted by the Manager of Safety.

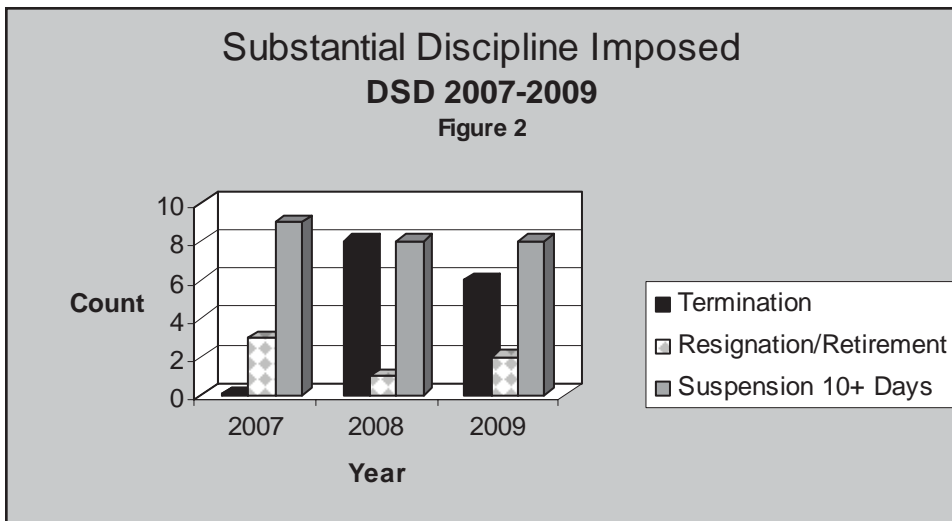


Sheriff Department Monitoring

In 2009 the Denver Sheriff's Department received or initiated 449 complaints. This was a significant decrease of from 2008 when the Department received or initiated 557 complaints. More than half of the complaints were internally-initiated by management while 40% were externally-initiated by citizens or inmates.

The most common allegations received in 2009 involved improper procedure (48.6%) and lost property (17.2%).

Figure 2 depicts year-to-year comparisons of substantial discipline imposed by the Sheriff Department over the past three years. This chart includes counts of deputies who resigned or retired while serious allegations were pending but prior to the making of a disciplinary decision.



Cases involving pre-disciplinary hearings were completed in an average of 182 days.

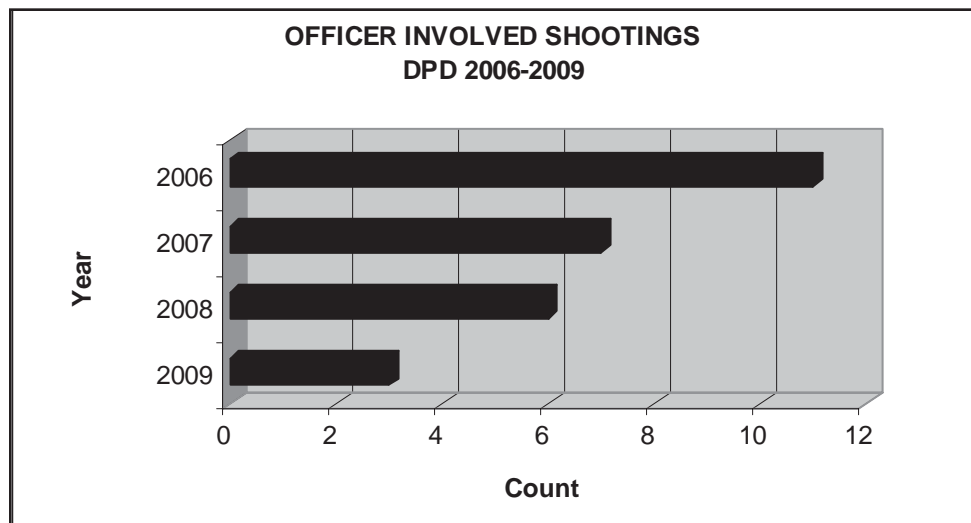
This was an increase from the average number of days in 2008 (155 days).

Critical Incident Review

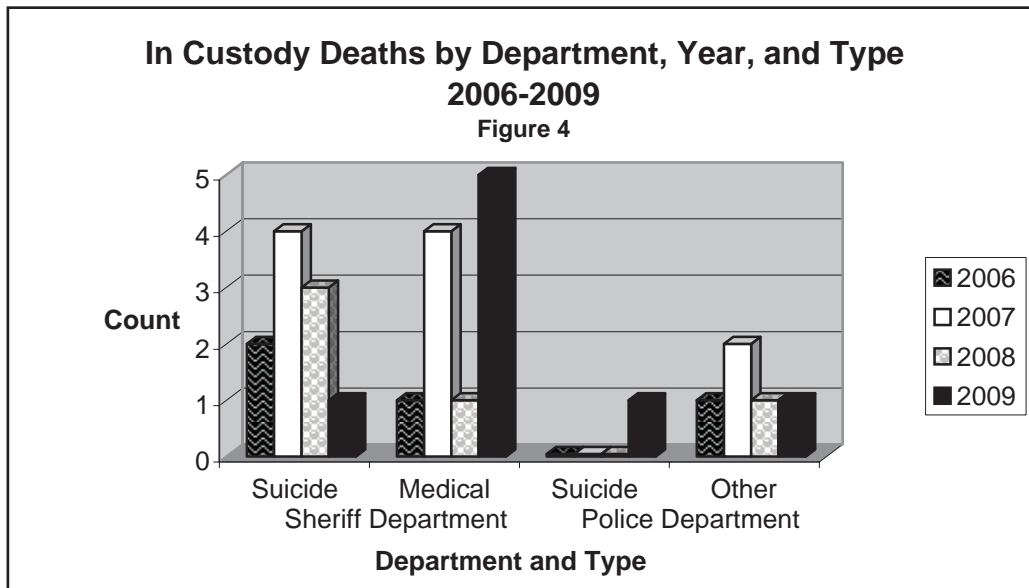
The OIM rolled out to 10 critical incidents in 2009. Specifically, the Monitor's Office responded to three DPD officer-involved shootings, and two DPD in-custody deaths in 2009. In addition, the OIM also responded to the City and County Jails for one in-custody suicide and four medical deaths that occurred during the course of the year. All internal affairs investigations into these incidents were actively monitored by the OIM.

There were three officer-involved shooting incidents in 2009.

The number of shootings continues a downward trend since 2006.



There were seven in-custody deaths in 2009, four in the Denver County Jail, one in the City Jail, and two after subjects were taken into custody by Denver Police officers. There was only one suicide committed by an inmate in the Denver County Jail in 2009 down from three in 2008.



Special Initiatives and Policy Issues

Departing From The Truth

During the course of 2009, the Monitor specifically recommended that the Manager of Safety and Director of Corrections immediately implement a policy of presumptive termination for any Sheriff Deputy who is sustained for “Commission of a Deceptive Act.” The Manager of Safety, however, has chosen to wait until the adoption of the new Sheriff matrix before making such a violation subject to the penalty of presumptive termination.

Police Department Policy Change Regarding Identifying Officers Involved In Referrals To “Denver Cares” Detox Center

At the request of the Monitor’s Office, the Police Department created a new process to assist Internal Affairs investigators in identifying officers involved in complaints from community members who were detained and sent to the Denver Cares Detoxification Center.

Police Department Limits Discretion By Vice Unit

At the request of the Monitor’s Office, the Police Department’s Vice Unit adopted policy changes to ensure officers who are identified as having been involved in unlawful vice or narcotics activities are held accountable by the Department and through the criminal justice system.

Monitor’s Continuing Concerns Regarding Entries Made Into Private Residences

The Monitor continued to pay close attention to cases involving allegations of search and seizure violations, particularly regarding police officer entries into private residences without a warrant. The Monitor asked that District command staff familiarize themselves with these issues as well.



DENVER
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CHAPTER 1

INTRODUCTION

Overview from the Independent Monitor

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

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

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

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

Core Functions of the Monitor's Office

The Monitor's Office "core functions" include:

- Monitoring and reviewing DPD and DSD critical incident investigations, specifically officer-involved shootings, in-custody deaths and uses of force resulting in great bodily injury or death. This task includes the monitoring of Use-of-Force Review Board and Tactics Review Board deliberations and recommendations;
- Monitoring the DPD and DSD internal affairs decision-making processes to ensure fairness and consistency in the assignment and handling of citizen and internally-initiated complaints and investigations;
- Monitoring and making recommendations regarding formal DPD and DSD internal investigations to ensure that investigations are thorough, fair and complete;
- Managing the citizen-police mediation program;
- Monitoring and making recommendations on DPD and DSD findings after investigations and the imposition of discipline after "sustained" findings are made. This task includes the monitoring of the deliberations and recommendations of Disciplinary Review Boards and Pre-disciplinary Hearings;
- Ensuring the citizen complaint process is accessible to the entire community and ensuring community members are aware of how their complaints were handled and why; and,
- Monitoring the timeliness of the complaint handling and disciplinary processes for DPD and DSD.

Status of Goals for 2009

At the beginning of 2009, the OIM set certain goals for the year. In general, the OIM was able to achieve or make significant progress towards the implementation of the aforementioned goals.

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

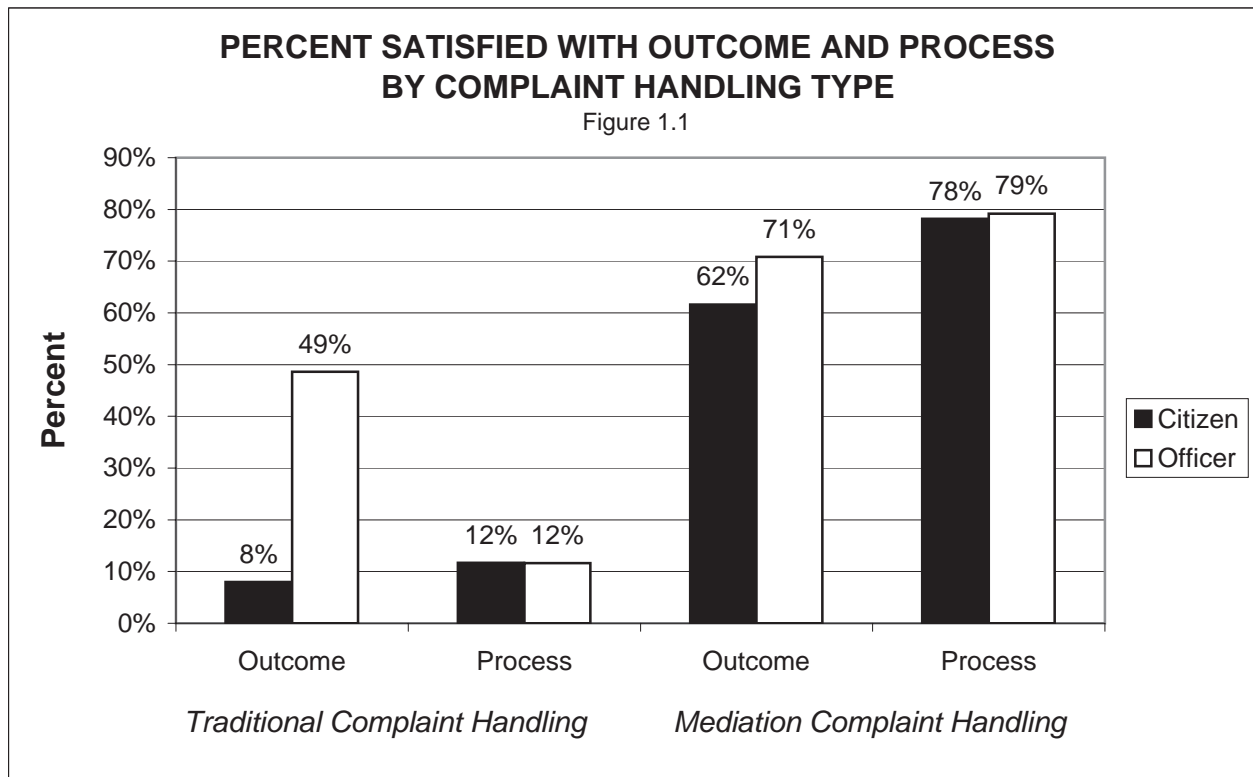
Status of Goal: The PARC report was published and made available to the public in June of 2008. The PARC report found that the Denver Police Department was a leader in the handling of deadly force incidents. The PARC report did, however, make 69 recommendations to further improve deadly force policies and investigations and reviews of critical incidents. The Chief of Police provided a comprehensive response to the report, agreeing in whole or in part, with 57 of PARC's 69 recommendations. In 2009, the Department finalized substantial changes in its deadly force and less-lethal policies as recommended by PARC. The policy changes that have been made are outlined in detail in the "Special Initiatives & Policy Issues" chapter of this report. The Monitor believes that the Department has worked in good faith to implement those changes, recommended by PARC and the Monitor, that are best suited to the Department and the needs of the City and the local community.

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

Status of Goal: As of the end of 2008, the OIM Mediation program has facilitated more than 200 community member-police mediations since the mediation program's inception in December of 2005. These numbers include both Police and Sheriff Department mediations and include some employee-on-employee complaints. A total of fifty-five community-police mediations were conducted during the 2009 calendar year. This program continues to be one of the largest in the United States as shown in Table 1.1.

Department	Agency	Number of Sworn Officers	Cases Mediated	Mediation Rate per 1,000 Officers
New York City Police Department, NY	Civilian Complaint Review Board	35,000	124	3.5
San Francisco Police Department, CA	Office of Citizen Complaints	2,325	76	32.7
Denver Police Department, CO	Office of the Independent Monitor	1,503	55	36.6
Washington D.C. Metropolitan Police Department	Office of Police Complaints	4,014	41	10.2
Minneapolis Police Department, MN	Civilian Police Review Authority	890	26	29.2
Portland Police Bureau, OR	Independent Police Review Division	978	20	20.4
Seattle Police Department, WA	Office of Professional Accountability	1,276	14	11.0
Kansas City Police Department, MO	Office of the Independent Monitor	1,396	12	8.6
Eugene Police Department, OR	Office of Community Complaints	108	5	46.3

Both complainant and officer satisfaction with the mediation process and subsequent outcomes remained high throughout the 2009 calendar year. Also, both complainant and officer satisfaction levels remain exceptionally higher than satisfaction levels associated with the traditional Internal Affairs processes and subsequent outcomes. (See Figure 1.1)



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

In 2009, the OIM made presentations on Denver’s community-police mediation program to the International Association of Chief’s of Police (IACP), the National Association for Civilian Oversight of Law Enforcement (NACOLE) and the Public Agency Training Council (PATC).

Goal: Continue annual evaluations of the DPD Personnel Assessment System (PAS), ensure an effective evaluation of officer comparisons, and evaluate the possibility of incorporating demographic data from pedestrian and traffic stops for analysis into the system. (PAS is an early intervention tool which identifies patterns in officer conduct and assists in identifying performance concerns relating to individual officers.)

Status of Goal: The DPD finalized its new Personnel Assessment System (PAS) in early 2008. At the end of each year, the OIM has been given the opportunity to audit the system. The OIM believes that the DPD’s early intervention system is one of the best in the country and is operating per expectations. Chief Whitman and the staff of the Professional Standards Unit, led by Commander John Burbach and Lieutenant Dikran Kushdilian, deserve accolades with respect to their dedication to making this important system a “best practice” when compared to other systems nation-wide.

In 2009, the OIM analyst provided the Department's Professional Standards Unit (PSU) with statistical analysis to allow for a more sophisticated comparison of similarly situated officers to ensure that officers are not negatively impacted by strict numerical triggers on the number of uses of force they engaged in or the number of complaints that were made against them. (For more information on the PAS and the OIM's audit results, see Chapter 5 "Special Initiatives & Policy Issues" chapter of this report.)

During the course of the year, the OIM evaluated the question of whether demographic data from traffic and pedestrian stops can be incorporated into the PAS in the future. The OIM consulted with national experts and reviewed all data available to the Police Department for that purpose. The OIM concluded that without a significant change in the amount and type of data collected by the Police Department (which would be costly and have a negative effect on officer morale), it would be impossible for the PAS system to effectively identify potential disparate treatment committed by officers in the field. The OIM also identified substantial challenges that would exist in accurately evaluating officer conduct, even if the above-noted data could be collected. Instead, more effective tools for identifying and dealing with biased policing by individual officers can be found in close supervision by street Sergeants, effective training, counseling and mentoring and effective hiring practices. The OIM has noted that the Division Chief of the Technology and Support Division, Dr. Tracie Keesee, has been working closely with a national consortium of academicians, community groups, and the Training Bureau to identify ways that the Department can improve both hiring and training practices. The OIM hopes to report on any improvements made by the Department in this area in our 2010 Annual Report.

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

Status of Goal: In 2009, the Manager of Safety created a Disciplinary Advisory Group (DAG) for the Sheriff Department, to create a disciplinary matrix and to create conduct principles and disciplinary guidelines for the Department to use when evaluating conduct and imposing discipline. The Sheriff DAG was created to mirror the reforms previously implemented by the Police Department when its disciplinary matrix was implemented on October 1, 2008.

The Monitor has been working closely with the Manager of Safety and the Sheriff Department to implement this disciplinary reform at the earliest possible time. The Manager of Safety, Alvin LaCabe, has promised that the reforms will be in place by July 1, 2010. The Monitor acknowledges that the implementation of these systemic and substantial reforms by that date requires enormous dedication from all those involved in the process and will be a remarkable achievement for the Department, its employees and the entire community.

(For further information on the concepts behind the Disciplinary matrix, see the Denver Police Department's "Discipline Handbook: Conduct Principles and Disciplinary Guidelines," located on the Manager of Safety's website, at www.denvergov.org/safety.)

Goal: Improve the timeliness of imposition of discipline for the DPD in all cases where a sustained finding is made.

Status of Goal: Due, in part, to a substantial increase in the number of Disciplinary Review Boards (DRB's) conducted by the Police Department, the DPD was unable to make any improvements in the timeliness of the imposition of discipline in 2009 and, in fact, fell behind improvements made in prior years. Chief's Hearings (where officers have an opportunity to provide mitigating evidence to the Chief of Police) also saw reductions in timeliness. Timeliness of command reviews improved slightly in 2009, but still did not accomplish the

goals previously set by the OIM and agreed to by the Department. This remains an area in need of significant improvement. The Monitor recommends that the Chief make improvements in timeliness in the imposition of discipline a high priority for 2010. (For more information, see the Timeliness Section of Chapter 2 (“DPD Monitoring”) of this report.)

Goal: Evaluate the DPD’s policies, training and practices with respect to responding to “excited delirium” type cases, specifically those resulting in in-custody deaths.

Status of Goal: In November of 2009, the Monitor attended the “2009 Sudden Death, Excited Delirium and In-Custody Death Conference,” a national seminar organized by the “Institute for the Prevention of In-Custody Deaths.” As a result of the information provided, the Monitor is in the process of compiling and reviewing all policies and protocols as they relate to the Police and Sheriff Departments and the Department of Safety’s Combined Communications Center handling of “excited-delirium” type cases (which involve otherwise unexpected deaths, often after physical struggles with police officers). The Monitor anticipates working with these Departments in an attempt to ensure that the City is engaging in “best practices” to reduce these in-custody deaths as much as possible and to protect the City from liability in the event that a death cannot be avoided.

2009 Outreach

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

Locations where OIM complaint/commendation forms can be found are listed in Appendix A of this report, which can be found online at www.denvergov.org/oim.

During the course of 2009, the OIM met with numerous community groups to discuss their issues and concerns regarding Denver law enforcement, as well as to describe the Monitor’s mission and practices. The mediation program was highlighted during all such community meetings.

The Monitor and the OIM Community Relations Ombudsman also attended numerous meetings organized by a consortium of community activists who have expressed concerns regarding potential biased policing activities by the Police Department and some of its patrol officers. The Monitor’s Office will continue to attend these meetings in an attempt to identify any areas where the OIM can improve and assist the Police Department in any initiatives that may be identified as a result of this community input.

Citizen Oversight Board

The Citizen Oversight Board (COB) holds regularly scheduled meetings open to the public. Times and locations for quarterly public meetings held by the COB in 2009 can be found in Appendix B of this report, which can be found online at www.denvergov.org/oim. For 2010 locations, see the COB website, located at www.denvergov.org/cob for information. Times and/or locations are, of course, subject to change.

The Monitor noted that, during the course of the year, there was community discussion regarding the role of the COB as part of Denver's civilian oversight of law enforcement program. The Monitor remains supportive of a COB that provides oversight of the Monitor's Office in a manner consistent with the OIM mission to provide fair and objective oversight of the Department of Safety. The Monitor appreciates the COB's continued dedication and commitment to that stated mission.

The Complaint Handling Process

A detailed explanation of the complaint handling and disciplinary processes for the Police and Sheriff Departments can be found in Appendix C of this report, which can be found online at www.denvergov.org/oim.

2010 Goals

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

- Follow up on the implementation of Police Department policy changes to deadly force and less-lethal policies as recommended by the Police Assessment Resource Center (PARC) report and accepted by the Chief of Police;
- Continue the use of the OIM community-police mediation program, one of the largest of its kind in the country, and assist other police agencies in implementing similar programs;
- Conduct annual evaluations of the DPD Personnel Assessment System to ensure effective evaluations of similarly situated officers;
- Ensure the implementation of the Denver Sheriff Department's new disciplinary matrix, reforms to the disciplinary processes, and the creation of an early intervention system;
- Improve the timeliness of imposition of discipline for the DPD in all cases where a sustained finding is made; and,
- Evaluate the DPD's policy, training, and practices with respect to responding to "excited delirium" type cases, specifically those resulting in in-custody deaths and make recommendations for improvements as necessary.

2010 Budget (& Budget Reductions)

As with all other City agencies, the OIM was required to submit budget reductions for the 2010 calendar year. The Monitor wishes to thank the members of the COB who, without complaint, accepted a reduction in the amount of their annual stipend (from \$1,200 to \$600) – the work of these citizen-volunteers is worth much more than the City can afford to pay.

The Monitor also wishes to thank the Mayor and the City Council for their continued commitment to providing the necessary funding to Channel 8 to continue televising the public forums organized by the COB as required by City Ordinance. The training and travel budget for the OIM was eliminated for 2010 – the Monitor will continue, however, to be able to learn from other oversight and police agencies through his work as a member of the NACOLE Board of Directors and will seek out any no-cost training that may be available for members of the OIM staff and the COB in the upcoming year. General budget information for 2009 can be found in Appendix C of this report, online at www.denvergov.org/oim.

A Note Regarding Statistics Published in this Report

Statistics published in this report were obtained from the Police and Sheriff Internal Affairs databases. Both agencies have processes in place which have led the OIM to conclude that these figures are generally accurate.

However, the OIM does not conduct governmentally approved audits of the databases for accuracy. When data entry errors are discovered, the OIM notifies the appropriate department in order to ensure errors are corrected.

Because most data is entered by DPD and DSD personnel and the OIM does not audit the data on a regular basis, the OIM cannot state with absolute certainty that all published statistics are 100% accurate.

Finally, because the Internal Affairs command staff for the DPD and DSD are the final arbiters of what allegations to place in their databases and against which officers, the OIM cannot certify that the data presented (with respect to specific complaint allegations) is as it would be if the OIM were making those decisions.



DENVER
THE MILE HIGH CITY

CHAPTER 2

DPD MONITORING

Internal Affairs Complaints

In 2009, the Denver Police Department Internal Affairs Bureau handled 755 citizen and internal complaints of which 82% involved citizen complaints (Table 2.1). The number of citizen complaints received in 2009 increased from 2008, but decreased when compared to 2007.

The Internal Affairs Bureau also handled another 344 scheduled discipline complaints with 69% of those involving traffic violations or accidents (Table 2.2). On a positive note, the number of officer-involved preventable traffic collisions has decreased each year since 2007.

TABLE 2.1 CITIZEN AND INTERNAL COMPLAINTS BY YEAR (DPD 2009)

COMPLAINT TYPE	YEAR		
	2007	2008	2009
Citizen	653	584	622
column %	84.5%	86.1%	82.4%
Internal	120	94	133
column %	15.5%	13.9%	17.6%
TOTAL	773	678	755

Note

The numbers of complaints for 2007 and 2008 are different in this report, as opposed to prior years, due to the decision to filter out complaints that were investigated by Police Internal Affairs but that involved the conduct of Deputy Sheriffs and Fire Fighters instead of police officers.

TABLE 2.2 SCHEDULED DISCIPLINE COMPLAINTS BY TYPE AND YEAR (DPD 2009)

COMPLAINT TYPE	YEAR		
	2007	2008	2009
Obedience to Traffic Regulations	57	93	105
column %	16.4%	26.6%	30.5%
Traffic Accidents	154	149	131
column %	44.3%	42.7%	38.1%
Failure to Appear in Court	94	79	66
column %	27.0%	22.6%	19.2%
Failure to Attend Continuing Education	11	0	2
column %	3.2%	0.0%	0.6%
Failure to Qualify with Firearm	32	28	40
column %	9.2%	8.0%	11.6%
TOTAL	348	349	344

Complaint Assignments

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

Table 2.3 shows that the most common assignment for citizen-initiated complaints, representing 70.4% of the complaints, were “declines.”

The majority of internally-initiated complaints were categorized as “formal” complaints (75.2%).

COMPLAINT TYPE	CASE ASSIGNMENT				TOTAL
	Formal	Informal	Decline	Service Complaint	
Citizen row %	79 12.7%	95 15.3%	438 70.4%	10 1.6%	622
Internal row %	100 75.2%	15 11.3%	18 13.5%		133
TOTAL	179	110	456	10	755

Table 2.4 shows the case assignments for scheduled discipline cases. With the exception of “obedience to traffic regulations,” all scheduled discipline cases were assigned as formal investigations.

COMPLAINT TYPE	CASE ASSIGNMENT				TOTAL
	Formal	Informal	Decline	Service Complaint	
Obedience to Traffic Regulations row %	100 95.2%	3 2.9%	1 1.0%	1 1.0%	105
Failure to Appear in Court row %	66 100.0%				66
Traffic Accidents row %	131 100.0%				131
Failure to Qualify with Firearm row %	40 100.0%				40
Failure to Attend Continuing Education row %	2 100.0%				2
TOTAL	339	3	1	1	344

Complaint Declinations

“No misconduct” was the most frequently cited reason for declining complaints, as shown in Table 2.5 followed by “mediation,” and “complainant withdrawals.”

REASON	SOURCE			TOTAL
	DPD	Monitor	Station	
Complainant Withdrew	50	1		51
% of total	11.9%	7.7%		
False/Trivial	3			3
% of total	0.7%			
Judicial Remedy	22	1		23
% of total	5.3%	7.7%		
Mediation	73	4	1	78
% of total	17.4%	30.8%	16.7%	
No Jurisdiction	8	1		9
% of total	1.9%	7.7%		
No Misconduct	244	2	5	251
% of total	58.2%	15.4%	83.3%	
Third Party	2			2
% of total	0.5%			
Unable to ID Officer	2			2
% of total	0.5%			
Untimely	15	3		18
% of total	3.6%	23.1%		
Complainant History		1		1
% of total		7.7%		
TOTAL	419	13	6	438

Complaint Allegations

Table 2.6 provides the most frequent complaint allegations received by DPD in 2009 compared with those received in 2007 and 2008. These allegations are only for citizen and internally-initiated complaints.

Overall, the number of allegations for citizen/internal complaints increased from 1201 in 2008 to 1401 in 2009, an increase of 17%.

ALLEGATION	2007	2008	2009
Improper Procedure	274	225	250
column %	22.1%	18.7%	17.8%
Discourtesy	302	259	288
column %	24.4%	21.6%	20.6%
Inappropriate Force			185
column %			13.2%
Unnecessary Force	235	222	111
column %	19.0%	18.5%	7.9%
Law Violations	40	66	31
column %	3.2%	5.5%	2.2%
Obedience to Traffic Regulations	59	93	110
column %	4.8%	7.7%	7.9%
Conduct Prejudicial	35	83	45
column %	2.8%	6.9%	3.2%
Other	294	253	381
column %	23.7%	21.1%	27.2%
TOTAL	1239	1201	1401

Complaint Findings on Formal Cases

Table 2.7 provides the findings for formal cases closed in 2009. These cases include all complaint types: citizen, internal, failure to complete continuing education, failure to qualify with a firearm, failure to appear in court, and traffic accidents.

Cases including traffic accidents and failure to appear had the highest sustained rates among all complaint types. Citizen-initiated complaints were the least likely to be sustained—23.8% sustained rate. Internally-initiated complaints had a sustained rate of 62.9%. Not reviewed - Officer resigned or retired prior to disciplinary decision being made.

FINDING	COMPLAINT TYPE						TOTAL
	Citizen	Internal	Traffic Accidents	Failure to Appear-Court	Failure to Qualify-Firearms	Failure to Complete-Education	
Sustained column %	54 23.8%	173 62.9%	133 98.5%	61 93.8%	36 87.8%		457
Unfounded column %	24 10.6%	21 7.6%					45
Exonerated column %	38 16.7%	34 12.4%	1 0.7%	4 6.2%	5 12.2%	2 100.0%	84
Not Sustained column %	104 45.8%	35 12.7%	1 0.7%				140
Not Reviewed column %	7 3.1%	12 4.4%					19
TOTAL	227	275	135	65	41	2	743

Imposition Of Discipline

Definitions of Disciplinary Actions Taken by the Police Department

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

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

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

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

Termination removes an officer from the classified service.

Discipline Statistics

Table 2.8 provides the discipline for sustained allegations in 2009 compared with 2007 and 2008.

The most frequent type of discipline imposed against Denver police officers in 2009 was an oral reprimand (53.2%), followed by a written reprimand (22.9%), and fined time (17.6%).

DISCIPLINE	2007	2008	2009
Termination column %	1 0.2%	1 0.2%	1 0.2%
Resigned/Retired--prior to discipline column %	6 1.5%	7 1.7%	7 1.6%
Suspension Without Pay column %	18 4.4%	13 3.1%	20 4.5%
Fined Time column %	48 11.9%	49 11.9%	79 17.6%
Written Reprimand column %	87 21.5%	97 23.5%	103 22.9%
Oral Reprimand column %	245 60.5%	246 59.6%	239 53.2%
Total	405	413	449

A comparison of discipline by complaint type for sustained allegations is provided in Table 2.9. The most common form of discipline for citizen-initiated complaints was a written reprimand with 30.4% of the sustained allegations receiving this penalty. Oral reprimands and fined time were second at 23.9%.

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

DISCIPLINE	COMPLAINT TYPE						TOTAL
	Citizen	Internal	Traffic Accidents	Obedience to Traffic Regulations	Failure to Appear-Court	Failure to Qualify-Firearms	
Dismissed column %	1 2.2%						1
Resigned/Retired--prior to discipline column %	1 2.2%	6 7.0%					7
Suspension Without Pay column %	8 17.4%	10 11.6%	2 1.5%				20
Fined Time column %	11 23.9%	24 27.9%	9 6.8%	4 4.2%	3 4.9%	28 100.0%	79
Written Reprimand column %	14 30.4%	29 33.7%	49 36.8%	9 9.5%	2 3.3%		103
Oral Reprimand column %	11 23.9%	17 19.8%	73 54.9%	82 86.3%	56 91.8%		239
TOTAL	46	86	133	95	61	28	449

A total of 449 of the 457 sustained cases in 2009 (see Table 2.7), had discipline imposed at the time of this report.

Cases Involving Dismissal, Resignation, or Substantial Imposition of Discipline

During the course of 2009, one officer was terminated by the Manager of Safety and one officer was demoted from Sergeant to Police Officer. Another seven officers resigned or retired while serious allegations against them were pending investigation or adjudication by the Department. Another ten officers received suspensions of 10 calendar days or more.

In comparison, in 2008, one officer was terminated, seven resigned or retired while serious allegations against them were pending but only four officers received suspensions of 10 calendar days or more. Until the 2009 case, no officers had been demoted by the Department since the inception of monitoring in 2005.

Dismissal

- An officer was terminated after having been sustained for domestic violence related acts against another employee of the Department, for lying during the course of the internal investigation and for making threatening comments to other employees in the Department.

Demotion

- An officer was demoted from Sergeant to police officer. The subject matter of the complaint is confidential.

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

- An officer resigned after having been accused of driving while uninsured and falsely reporting to another police agency that he was insured after being involved in a traffic collision while off-duty. The officer was also accused of lying during the course of the internal affairs investigation.
- An officer retired after having been accused of engaging in sexual relations on-duty ten years prior and after having been accused of violating a Chief's order by taking an unauthorized vacation out-of-state while on paid administrative leave and lying to a command officer about his whereabouts.
- An officer resigned after having been convicted of off-duty Driving Under the Influence of Alcohol and having been accused of trying to use his police position to avoid arrest. The officer had previously been suspended without pay in four prior cases.
- An officer resigned after having been criminally charged with felony assault with a firearm on officers in another state.
- An officer resigned after having been accused of illegally using a controlled substance, abandoning his post, and taking a police vehicle without authorization.
- A probationary officer resigned after having been criminally charged for a felony of Driving Under the Influence of Alcohol Causing Injury. (In this case, the Monitor expressed concerns to the Department that even though the Department was in possession of police reports which clearly established the officer's guilt and that the officer was on probation at the time of the incident, the Department placed the officer on paid administrative leave and did not take action to terminate the officer until months after the incident. In order to avoid future problems in that regard, the Monitor is now made aware of any Internal Affairs case opened against a probationary officer.)
- A probationary officer resigned after having been accused of unnecessary force, abandoning his post, leaving the city (while on duty) without permission, and falsifying a log sheet.

Substantial Suspensions Without Pay (10 or more Calendar Days)

- An officer received a 90-day suspension (with 35 days held in abeyance) for inappropriate sexual contact off-duty and lying to internal affairs. The officer accepted responsibility and agreed not to appeal the disciplinary decision. The Monitor disagreed with the disciplinary decision, concluding that the officer should have served the entire suspension without pay and that there was insufficient cause to hold 35 days of the suspension in abeyance. (See Quarterly Discipline Report, 1st Quarter 2009, at www.denvergov.org/oim.)
- An officer received a 75-day suspension for driving in violation of the Department's pursuit policy (by pursuing a fleeing felon in an unmarked police vehicle without emergency lights and running a stop sign) and causing serious bodily injury to a civilian. The officer had prior discipline for preventable accidents and prior discipline for unsafe tactics during a traffic stop.
- An officer received a 75-day suspension (with 15 days held in abeyance) for violating the Department's Code-10 policy (by driving at an excessive speed without activating emergency equipment) and causing serious bodily injury to a civilian. The officer accepted responsibility and agreed not to appeal the disciplinary decision.
- An officer received a 75-day suspension (with 20 days held in abeyance) for violating the Department's Code-10 driving policy (by running a red light at a high rate of speed) and causing the death of a civilian. The officer accepted responsibility and agreed not to appeal the disciplinary decision.
- An officer received a 30-day suspension (with 10 days held in abeyance) after being criminally convicted for a domestic-violence related charge of misdemeanor Criminal Mischief Less than \$500. The officer accepted responsibility and agreed not to appeal the disciplinary decision.
- An officer received a 30-day suspension (with 10 days held in abeyance) after having been convicted of misdemeanor Disturbing the Peace for sending inappropriate text messages to a minor. The officer accepted responsibility and agreed not to appeal the disciplinary decision.
- An officer received a 10-day suspension for failing to respond to a dispatched call and lying to dispatch claiming to have arrived at that call. The officer accepted responsibility and agreed not to appeal the disciplinary decision.
- An officer received a 10-day suspension (with 2 days held in abeyance) for using unnecessary force and asserting his police authority on a neighbor during a personal dispute. The officer accepted responsibility and agreed not to appeal the disciplinary decision.
- An officer received a 10-day suspension (with 2 days held in abeyance) for contact with an addict off-duty that was outside the scope of his authority and that led to an allegation of inappropriate sexual contact. The officer accepted responsibility and agreed not to appeal the disciplinary decision.
- An officer received a 10-day suspension (with 5 days held in abeyance) after having been convicted of misdemeanor false arrest in an off-duty incident involving a dispute between his neighbors. The officer accepted responsibility and agreed not to appeal the disciplinary decision.

Creation of a Feedback Loop with the Civil Service Commission

At the recommendation of the Monitor's Office, the Manager of Safety began notifying the Civil Service Commission (who is responsible for administering employment tests and conducting background checks for all applicants for police officer) about any relatively newly hired officer who was terminated, or resigned in lieu of termination, during the course of the year.

The intent in creating this "feedback loop" was to ensure that the Civil Service Commission had the opportunity to review its hiring processes to determine if there may have been any "red flags" that may have identified concerns regarding the hiring of the involved officer. This new process allows the Civil Service Commission the opportunity to use these personnel actions as possible lessons to be learned with respect to future hiring decisions.

Ranks of Officers Receiving Discipline in 2009

DISCIPLINE	RANK							TOTAL
	Officer	Corporal	Technician	Detective	Sergeant	Lieutenant	Captain and Above	
Dismissed column %	1 0.4%							1
Resignation/Retired- prior to discipline column %	6 2.3%					1 10.0%		7
Suspended Time column %	16 6.0%		1 3.4%	2 3.6%		1 10.0%		20
Fined Time column %	49 18.4%	2 7.7%	3 10.3%	13 23.2%	9 17.6%	3 30.0%		79
Written Reprimand column %	61 22.9%	8 30.8%	8 27.6%	9 16.1%	12 23.5%	3 30.0%	2 50.0%	103
Oral Reprimand column %	139 52.3%	16 61.5%	17 58.6%	32 57.1%	30 58.8%	3 30.0%	2 50.0%	239
TOTAL	266	26	29	56	51	10	4	449

Patterns

Complaints Per Officer

Table 2.11 shows the number of complaints received by DPD officers in 2009. This table includes all complaints whether generated by a citizen complaint or generated internally (regardless of finding).

In 2009, 53.3% of the total number of DPD officers (n = 1509) received zero complaints. Of the officers that received one or more complaints in 2008, 29.4% received only one complaint. Three percent of officers received four or more complaints in 2009.

COMPLAINTS	Count	Percent
Zero	805	53.3%
One	417	27.6%
Two	171	11.3%
Three	71	4.7%
Four	23	1.5%
Five	13	0.9%
Six or More	9	0.6%
TOTAL	1509	100%

Officers receiving more complaints than other similarly situated officers are identified for further review by the Department’s early intervention system. If appropriate and necessary, the officers will receive counseling, training or mentoring to ensure that they are not engaging in behavior that is contrary to Department needs and expectations.

The OIM reviewed the Department’s use of its Personnel Assessment System (PAS) and determined that 53% all officers receiving four or more complaints in 2009 were identified by the PAS and evaluated to determine to what extent management intervention was necessary.

Force Complaints Per Officer

Table 2.12 shows the number of unnecessary force complaints filed against DPD officers in 2009 by how the complaint was initiated: citizen or internal.

There were 178 officers who received at least one unnecessary force complaint in 2009. Among these officers, the majority received only one citizen-initiated complaint (78.1%); 3.9% of the officers received three or more complaints.

TABLE 2.12 NUMBER OF FORCE COMPLAINTS PER OFFICER (DPD 2009)				
COMPLAINTS	<u>CITIZEN-INITIATED</u>		<u>INTERNAL-INITIATED</u>	
	Count	Percent	Count	Percent
One	178	78.4%	6	100%
Two	41	18.1%		
Three	7	3.1%		
Five	1	0.4%		
TOTAL	227	100.0%	6	100%

Officers receiving more force complaints than other similarly situated officers are identified for further review by the Department’s early intervention system. If appropriate and necessary, the officers will receive counseling, training or mentoring to ensure that they are not engaging in a pattern of unconstructive behavior.

The OIM confirmed that 50% of all officers receiving three or more force complaints in 2009 were identified by the Department’s Personnel Assessment System and evaluated by Department management to ensure no supervisory intervention was required.

Citizen Complaint Process

Due to concerns regarding timeliness in the handling of citizen complaints, the Citizen Oversight Board recommended that the Internal Affairs Bureau send status letters to complainants at the conclusion of all formal investigations. The letters would explain that the formal investigation has been completed and that the investigation is now being referred to the involved officers' commanding officer for findings. The Commander of the Internal Affairs Bureau accepted this recommendation and issued a Bureau Directive to ensure such letters are prepared and sent out on a regular basis.

Citizen Complaint Patterns

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

Citizens who filed complaints against DPD in 2009 predominantly filed only one complaint (97.9%) while nineteen complainants (5.1%) filed two complaints.

It should be noted that the DPD will often combine multiple complaints made by one individual under one case number.

This is done for administrative expediency and to avoid an officer who has become the target of a repeat complainant from having his or her complaint history appear to be more significant than is warranted.

Demographic characteristics of complainants who filed complaints against DPD in 2009 are presented in Table 2.13. As shown, 742 complainants accounted for 622 citizen complaints.

The percent column includes percentages of the missing values while the valid percent column excludes the missing values.

Gender	Count	Percent	Valid Percent
Male	436	58.8%	59.3%
Female	299	40.3%	40.7%
Missing	7	0.9%	
Total	742	100%	100%
Race	Count	Percent	Valid Percent
White	264	35.6%	40.9%
Black	150	20.2%	23.2%
Hispanic	125	16.8%	19.3%
Asian/Pacific Islander	12	1.6%	1.9%
American Indian	5	0.7%	0.8%
Unknown	90	12.1%	13.9%
Missing	96	12.9%	
Total	742	100%	
Age	Count	Percent	Valid Percent
18 or Younger	35	4.7%	5.6%
19 - 24	98	13.2%	15.7%
25 - 30	100	13.5%	16.0%
31 - 40	154	20.8%	24.7%
41 - 50	128	17.3%	20.5%
Over 50	109	14.7%	17.5%
Missing	118	15.9%	
Total	742	100%	

Table 2.14 illustrates the number, percent, and rate of citizen-initiated complaints by district.

Police District Six accounted for 32.5% of the total citizen-initiated complaints which translates into a complaint rate of 3.54 per 1,000 residents. The lowest complaint rate 0.49 was found in District Three. District Five accounted for the fewest number of complaints with 44 or 7.1% of the total; however, because of the District's comparatively low population, the District had the third highest rate at 1.15 per 1,000 residents.

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

The airport (DIA) had 29 complaints which represented 4.7% of the total number of citizen-initiated complaints. There is no complaint rate for DIA since there is no defined population count.

DISTRICT	Count	Percent	Disrict Population	Complaint Rate per 1,000
1 -- NorthWest	64	10.3%	89,802	0.71
2 -- NorthCentral	73	11.7%	63,006	1.16
3 -- SouthEast	86	13.8%	174,309	0.49
4 -- SouthWest	99	15.9%	138,933	0.71
5 -- NorthEast	44	7.1%	38,207	1.15
6 -- Downtown	202	32.5%	57,112	3.54
DIA--Airport	29	4.7%		
Unknown	25	4.0%		
TOTAL	622	100%		

Commendations & Awards

In the interest of providing a more balanced view of the Denver Police Department's service to the community, the OIM reports on commendations and awards received by DPD Officers for exceptional services provided to the community and the Department. There were 762 commendations and awards received by DPD employees in 2009. A detailed description of awards granted by the DPD during the course of 2009 can be found in Appendix G of this report at www.denvergov.org/oim [reports- annual reports - 2009 annual report appendix].

TABLE 2.15 DPD COMMENDATION TYPES AND DEFINITIONS	
Commendatory Action Report	A form documenting positive comments from citizens that come through the comment hotline.
Commendatory Letter	Awarded to employees who, through alertness and attention to duty, perform their assigned functions in a commendable manner.
Community Service Award	Awarded to employees who, by virtue of sacrifice and expense of his/her time, fosters or contributes to a valuable and successful program in the area of community affairs, or who acts to substantially improve police/community relations through contribution of time and effort when not involved in an official police capacity.
Distinguished Service Cross	Awarded to employees who are cited for gallantry not warranting a Medal of Honor or a Medal of Valor.
Letter of Appreciation	A letter expressing appreciation for services provided by employees.
Life Saving Award	Awarded to employees who, through exceptional knowledge and behavior, perform a physical act which saves the life of another person and there is no danger to the officer's life.
Medal of Honor	Awarded to employees who distinguish themselves conspicuously by gallantry and intrepidity at the risk of their lives above and beyond the call of duty.
Medal of Valor	Awarded to employees who distinguish themselves by extraordinary heroism not justifying the award of the Medal of Honor.
Merit Award	Awarded to employees who distinguish themselves by exceptional meritorious service who: through personal initiative, tenacity and great effort acts to solve a major crime or series of crimes, or through personal initiative and ingenuity, develops a program or plan which contributes significantly to the Department's objectives and goals.
Officer of the Month	Awarded to employees who represent the department in all facets of law enforcement with a commitment to excellence, in support of the values of the organization, and a desire to represent the department in the manner in which they were sworn.
Official Commendation	Awarded employees, who by exemplary conduct and demeanor, perform their assigned functions in an unusually effective manner.
Purple Heart	Awarded to employees who are killed, seriously wounded or seriously injured in the performance of an official action.
STAR award	Awarded to employees who, through exceptional tactics, act to successfully resolve a critical incident, thereby setting a standard for safety and professionalism to which all officers should aspire.
Unit Commendation	Awarded to an entire unit whose members perform their assigned function in an unusually effective manner.

Table 2.16 shows the number of commendations and awards received by DPD employees in 2009 compared to 2007 and 2008.

Official Commendations were the most frequent type of commendation received accounting for 34% of the total. Other frequent commendations included Commendatory Action Reports (23%) and Letters of Appreciation (9%).

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

COMMENDATION	YEAR		
	2007	2008	2009
Commendatory Action Report	175	162	179
column %	21.5%	14.5%	23%
Official Commendation	201	490	256
column %	24.7%	43.8%	34%
Commendatory Letter	88	85	52
column %	10.8%	7.6%	7%
Letter of Appreciation	104	110	67
column %	12.8%	9.8%	9%
STAR Award	62	42	44
column %	7.6%	3.8%	6%
Merit Award	51	71	44
column %	6.3%	6.4%	6%
Life Saving Award	24	32	24
column %	2.9%	2.9%	3%
Citizens Appreciate Police	2	10	11
column %	0.2%	0.9%	1%
Community Service Award	4	4	8
column %	0.5%	0.4%	1%
Officer of the Month	4	7	9
column %	0.5%	0.6%	1%
Distinguished Service Cross	13	23	10
column %	1.6%	2.1%	1%
Medal of Honor	5	7	
column %	1%	0.6%	
Medal of Valor	5	9	2
column %	0.6%	0.8%	0%
Unit Commendation	74	60	39
column %	9.1%	5.4%	5%
Purple Heart	4	1	1
column %	0.5%	0.1%	0%
Other than DPD		3	8
column %		0.3%	1%
Unknown	1	2	8
column %	0%	0.2%	1%
TOTAL	814	1,118	762

Timeliness

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

For information on timeliness goals established by the Monitor for DPD handling of complaints and the status of the Department's achievement of such goals, see Appendix E, which can be found online at www.denvergov.org/oim.

Table 2.17 compares case timeliness (number of days from receiving the complaint to closing the complaint) by the complaint type. The cases included in this table are those that were received after August 1, 2005 and closed between January 1, 2009 and December 31, 2009. This table does not include citizen-initiated complaints that were referred for mediation, as the Police Department has no control over the timeliness of a case once it is referred to the mediation program.

On average, citizen-initiated complaints were closed within 45 days compared to 40 days for internally-initiated complaints.

Table 2.18 provides a description of the types of complaints received and the case status of those complaints by year's end. This analysis includes those cases that were opened between January 1, 2009 and December 31, 2009.

Comparing citizen-initiated complaints to internal complaints shows citizen complaints with a higher closure rate at 90% compared to 85% for internally-initiated complaints.

COMPLAINT TYPE	Mean	Median	Total Cases
Citizen	44.6	36	489
Internal	39.8	15	197
Traffic Accidents	14.4	13.0	125
Failure to Appear--Court	23.8	21.5	62
Failure to Qualify-Firearms	37.2	40	40
Failure to Complete-Education	10.5	10.5	2
TOTAL AVERAGE	28.4	22.7	915

COMPLAINT TYPE	CASE STATUS			Total Cases
	Closed	Open - Assigned	Pending Mediation	
Citizen	582	47	1	630
row %	92.4%	7.5%	0.2%	
Internal	198	32		230
row %	86.1%	13.9%		
Traffic Accidents	129	2		131
row %	98.5%	1.5%		
Failure to Appear-Court	66			66
row %	100.0%			
Failure to Qualify-Firearms	40			40
row %	100.0%			
Failure to Attend-Continuing Education	2			2
row %	100.0%			
TOTAL	1015	81	1	1099

The number of citizen and internal cases is higher in Table 2.18 than in Table 2.1 due to excluding obedience to traffic regulations as a separate category in Table 2.18. Those cases are included in the citizen and internal categories.

Timeliness Issues Regarding IAB Investigations and Findings

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

In order to achieve this goal, the staffing at the Internal Affairs Bureau needs to be adequate. The Monitor's Office continues to be concerned that in April 2008, the staffing in DPD's Internal Affairs Bureau was reduced from ten Sergeant-investigators to nine. As a result, IAB staff had a greater strain on its resources in 2008 and 2009 than in preceding years, which may have made it more difficult for investigations to be completed in a timely fashion.

There were three police internal affairs cases still open that were over one-year-old as of December 31, 2009. As of the end of 2008, there had been four internal affairs cases still open that were over one year old. All of those cases were resolved during the course of 2009.

Descriptions of Denver Police Department Cases Over One Year Old as of December 31, 2009

Case #1: Opened April 2008. Case involves an allegation of criminal assault by a Gang Unit officer on a minor at the conclusion of a foot pursuit and false reporting by witness officers. The case was delayed by the criminal prosecution of the officer charged with the assault, which resulted in an acquittal by jury on March 12, 2009. The subsequent internal investigation was completed in May 2009. Due to the voluminous record, including trial transcripts, the command review, and Disciplinary Review Board, the process took more than four months to complete. The case was submitted to the Manager of Safety for his review in September 2009. The Manager of Safety's decision was still pending as of the end of the year due to a need for further investigation and analysis and the seriousness of the allegations.

Case #2: Opened August 2008. Case involves allegations of unnecessary force and lying under oath at a felony preliminary hearing. The case was delayed by the criminal prosecution of the subject officer, which resulted in an acquittal by jury on September 22, 2009. The subsequent internal investigation was delayed by the need to obtain trial transcripts and was not completed as of the end of the year. The Monitor believes that part of the delay in the completion of this case was the result of a lack of staffing in Internal Affairs.

Case #3: Opened December 2008. Case alleges unnecessary force and lying to Internal Affairs. The investigation took four months to complete. The command review process took more than six months to complete and involved several requests for further investigation from the Monitor's Office. The case was submitted to the Manager of Safety for his review in early December 2009. The Manager of Safety's decision was still pending as of the writing of this report.

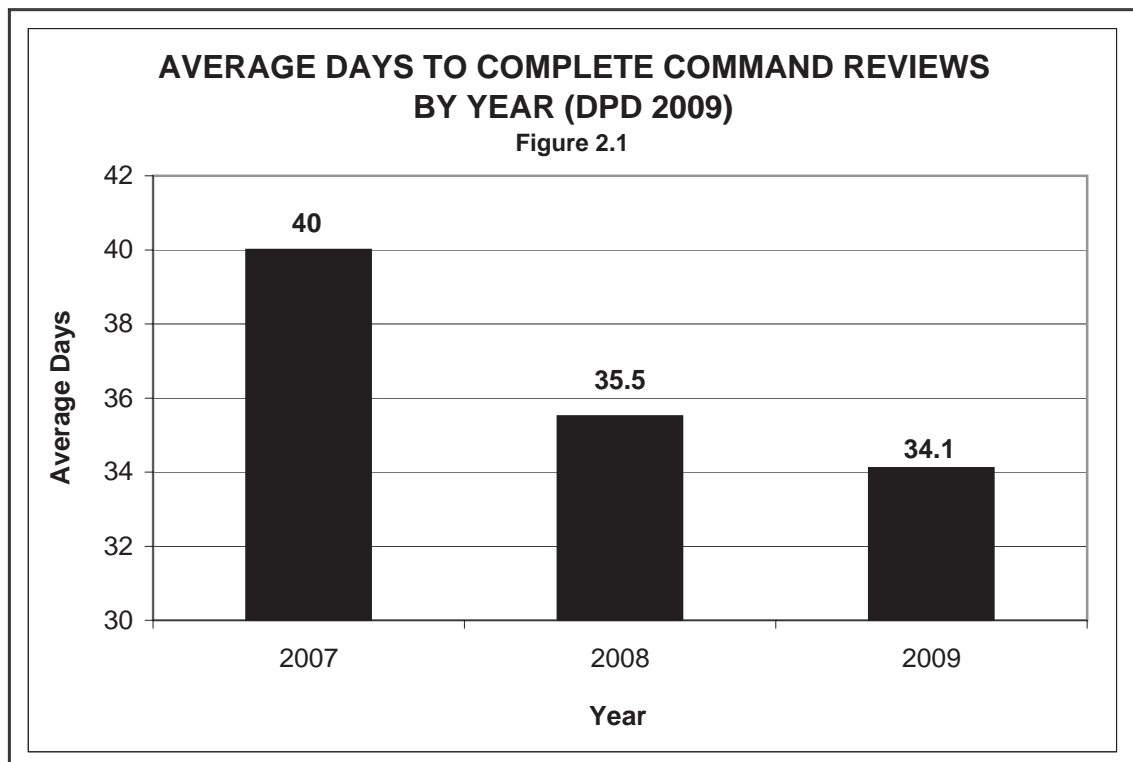
Timeliness Issues Regarding Command Review of Complaints

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

1. Police Department "command reviews" (the period necessary for a DPD Commander and a Division Chief to review a formal internal affairs investigation and make recommendations as to whether an officer violated Department rules and, if so, the appropriate level of discipline);
2. Disciplinary Review Boards (consisting of civilians and officers who make recommendations regarding discipline to the Chief of Police for serious cases and upon request of an officer who has been notified that a Division Chief has recommended more than a reprimand); and,
3. Chief's Hearings (conducted by the Chief of Police or his Deputy Chiefs, giving the subject officer(s) an opportunity to present evidence which is intended to explain, mitigate, or excuse the conduct of the officer).

Timeliness of Command Reviews

In our 2008 Annual Report, the Monitor expressed hope that the DPD would continue to see improvements in the timeliness of the command review process in 2009. Although timeliness did improve slightly in 2009, the timeliness goals previously established (to complete all command reviews within 45 days) was still not accomplished. The average amount of time it took for command reviews is represented in Figure 2.1.



Timeliness of Disciplinary Review Boards

Last year, the OIM reported that the amount of time it took the Department to impose discipline in cases involving Disciplinary Review Boards (DRBs) substantially improved, but still hoped to see further improvements in 2009. Unfortunately, not only did timeliness not improve, it took the Department longer to impose discipline in DRB cases in 2009 than in the prior years wherein the OIM evaluated this measure (2007 and 2008).

It needs to be recognized that in 2009, however, the number of DRBs increased dramatically from all prior years. It is unknown to what extent the creation of the matrix may have resulted in a greater number of requested DRBs. It is the Monitor's opinion, however, that all of the post-matrix mandatory DRBs would have been mandatory DRBs pre-matrix as well.

Figure 2.2 shows the number of DRBs conducted from 2007 through 2009, as well as, how many of those cases were required by DPD policy (based upon a recommended penalty of ten days suspended or more), were requested by an officer, or were ordered by the Chief of Police (usually at the request of the Independent Monitor). During 2009, the number of mandatory and requested DRBs increased significantly.

The DRBs in 2007 and 2008 were all pre-matrix hearings while in 2009, 20 were classified as pre-matrix and 13 were conducted as post-matrix hearings.

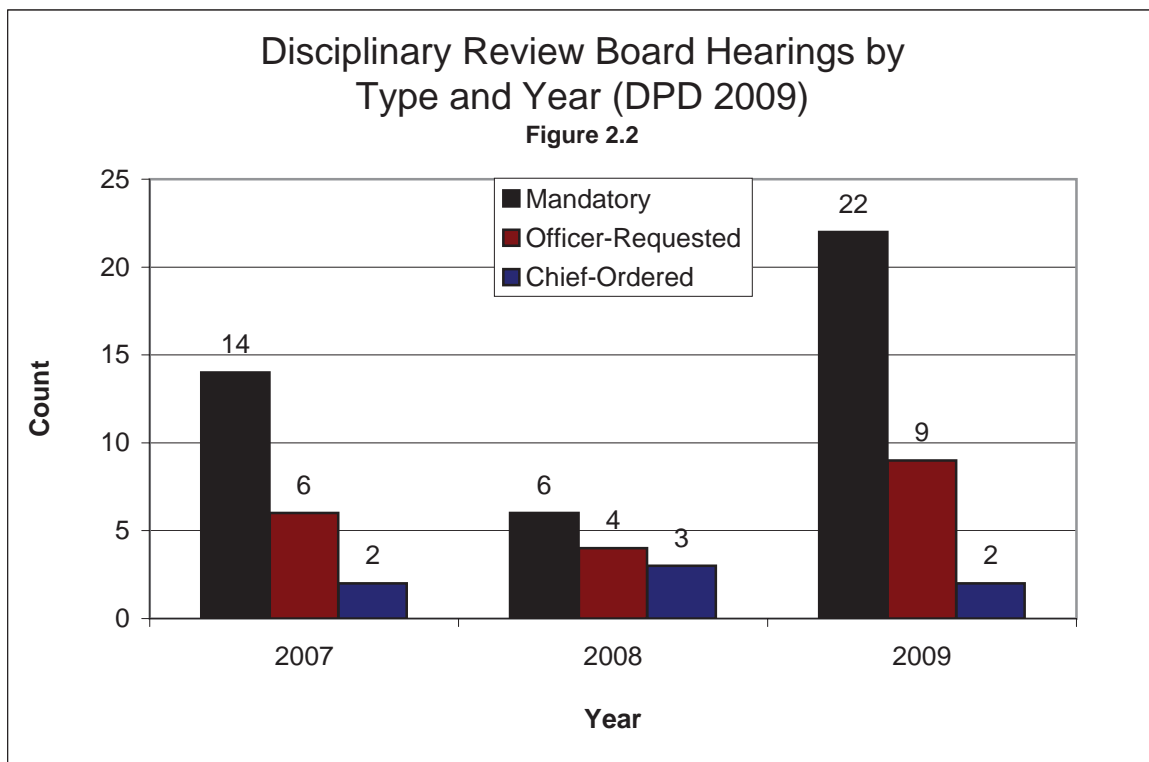
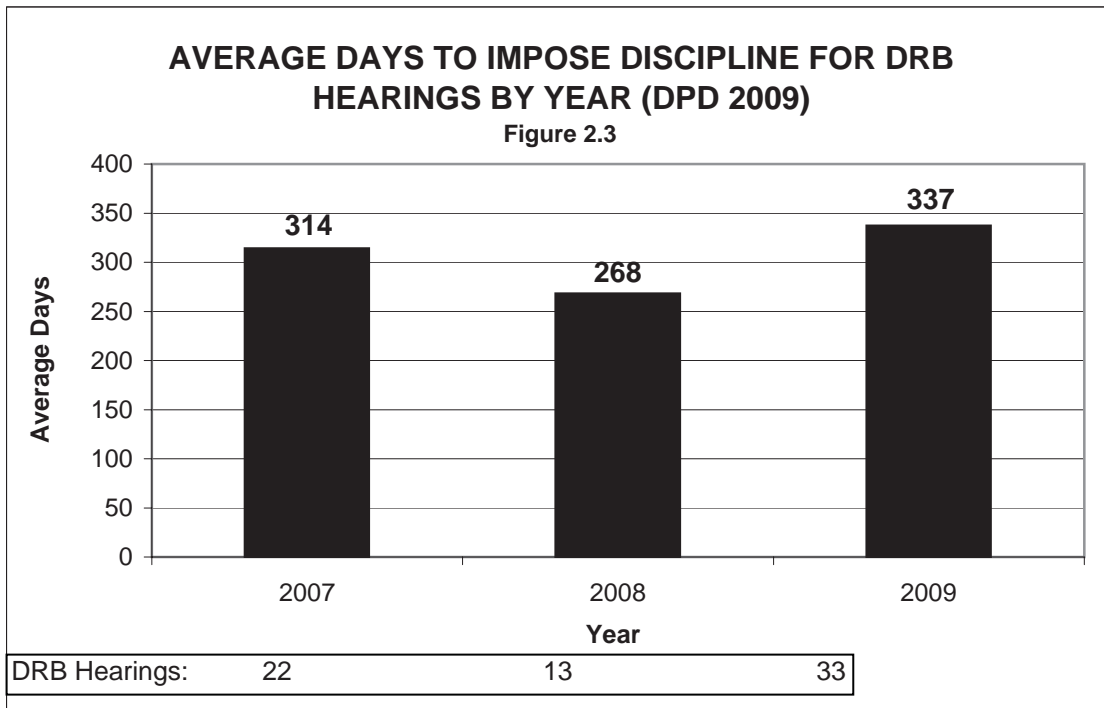


Figure 2.3 compares the timeliness in the imposition of discipline, over the last three years, in cases involving a Disciplinary Review Board.



The Chief of Police has initiated a policy change as of the beginning of 2010 which should help reduce the number of DRBs that the Department has to conduct. Specifically, the Chief will no longer require that a DRB be automatically convened in cases involving suspensions of 10 or more days. Instead, the Chief will allow officers to accept discipline of 10 or more days and waive the DRB-Chief’s Hearing process on a case-by-case basis.

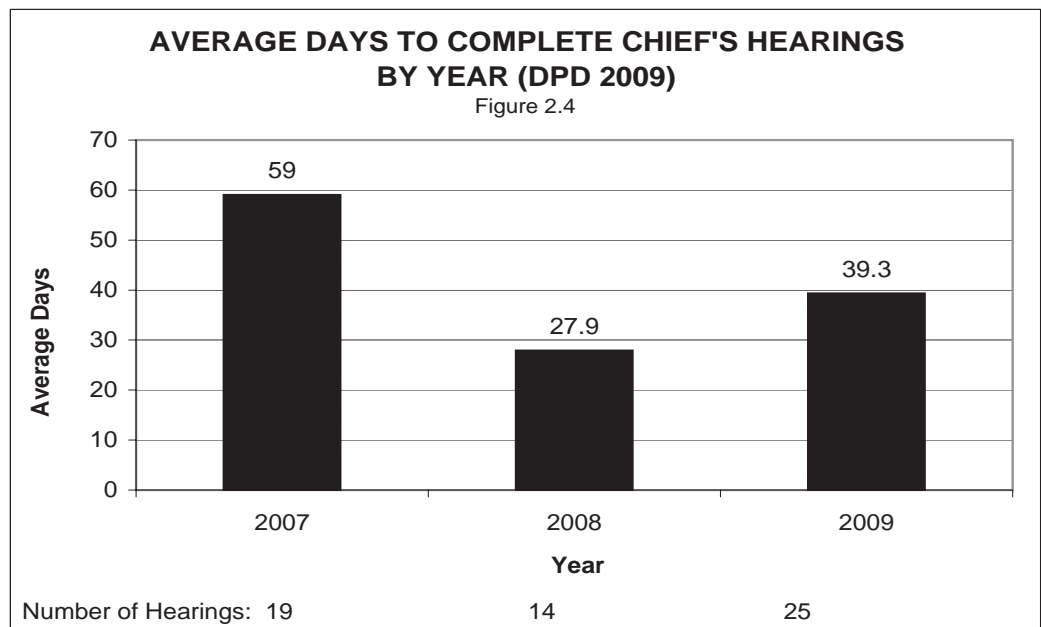
Even with this change, the Monitor believes that it may be necessary to consider further limiting the use of the DRB process. On average, in 2009, the DRB process increased the time necessary to make a disciplinary decision by more than two months (66 days). One such possibility would be only to allow DRBs to be requested only in cases involving suspended time (as opposed to “fined time”) or suspended time of more than 5 or 10 days.

Timeliness of Chief’s Hearings

Last year, the Monitor reported that the amount of time it took the Chief’s Office to conduct Chief’s Hearings had improved substantially, but still hoped that the Chief would work to ensure that Chief’s Hearings be conducted in no more than 30 days after the completion of the DRB hearing. Unfortunately, it took the Chief’s Office longer to conduct Chief’s Hearings in 2009 than in 2008. It must be noted, however, that 2009 timeliness was still an improvement over 2007 even though there were substantially more Chief’s Hearings in 2009 than in either prior year.

The Monitor was particularly concerned that the *average* number of days it took to conduct Chief’s Hearings in 2009 (40 days) was substantially higher than the previously stated goal of completing *every* Chief’s Hearing in 30 days or less.

Figure 2.4 shows the average number of days to complete Chief's Hearings by year since 2007.

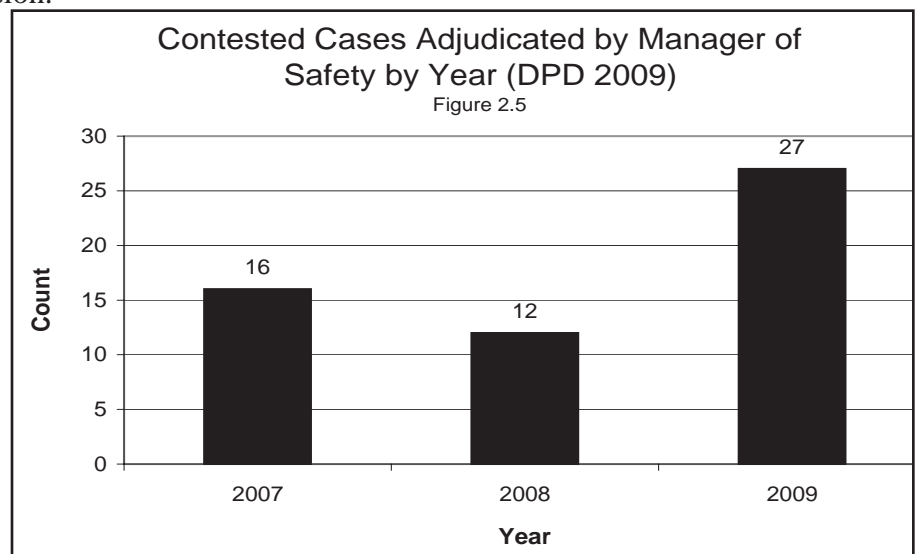


Timeliness of Manager of Safety Disciplinary Decisions

It should be noted that one factor affecting timeliness involved the Manager of Safety holding onto a number of cases for a significant period of time before making a disciplinary decision. The Manager is required by Charter to make a disciplinary decision within 15 days of receiving a case from the Chief of Police. (It should be noted that no other person in the review process is required to review a case and make a decision in such a short period of time). In eleven cases, however, the Manager requested that the subject officers waive their right to have their discipline imposed in that period of time. In those cases, the Manager has taken anywhere from two to six months to make a final disciplinary decision (in some cases while awaiting further investigation from the Department). Three such cases were pending as of the end of the calendar year with the review period ranging from one to more than three months without resolution.

The Monitor noted that the number of contested cases which were reviewed by the Manager in 2009 was dramatically higher than in prior years as indicated in Figure 2.5, resulting in a substantially increased workload for the Manger. In addition, the Monitor acknowledges that in a number of the above-noted cases, the Manager made reasonable and necessary requests for additional investigation or evaluation of the cases before making his disciplinary decision.

Some cases, however, have been allowed to languish, harming the Department's goal of improving timeliness in the imposition of discipline.



Monitor Conclusions Regarding Timeliness of the Overall Command Review

The Police Department is currently headed in the wrong direction with regard to timeliness in the imposition of discipline. The amount of time it takes for the Police Department to impose discipline remains too long and seems to be getting longer.

Improvements can be made in the timeliness of command reviews, DRB scheduling, Chief Hearing scheduling, and reviews conducted by the Manager of Safety. As indicated above, it is important to the involved officers, the Department, and the community that improvements are made in this area and the Monitor calls on the Chief and the Manager to make it happen.



DENVER
THE MILE HIGH CITY

CHAPTER 3

DSD MONITORING

Complaints

In 2009, the Denver Sheriff Department received 461 complaints compared to 556 in 2008. This represents a trend of continuing decreases in complaints since 2007.

As shown in Table 3.1, 25.8% of the total complaints received in 2009 were filed by inmates, a reduction from the percentage of complaints filed by inmates in preceding years. Compared to preceding years, complaints filed by management, decreased numerically, but increased as a percentage of the total number of complaints.

Complaint Allegations

Table 3.2 shows the complaint allegations by year.

In 2009, improper procedure allegations accounted for 48.6% of the total allegations received. The next most common allegation was “lost property,” accounting for 17.2% of the allegations.

COMPLAINT SOURCE	YEAR		
	2007	2008	2009
Citizen	76	81	65
column %	12.8%	14.5%	14.5%
Employee	17	13	9
column %	2.9%	2.3%	2.0%
Inmate	216	189	116
column %	36.4%	33.9%	25.8%
Management	256	256	244
column %	43.2%	46.0%	54.3%
Other		2	5

COMPLAINT TYPE	YEAR		
	2007	2008	2009
Improper Conduct	252	116	43
column %	37.4%	18.4%	8.7%
Lost Property	95	108	85
column %	14.1%	17.1%	17.2%
Improper Procedure	151	288	240
column %	22.4%	45.6%	48.6%
Excessive Force	25	28	18
column %	3.7%	4.4%	3.6%
Law Violation	11	12	15
column %	1.6%	1.9%	3.0%
Other	39	11	16
column %	5.8%	1.7%	3.2%
Service Complaint	100	69	77
column %	14.9%	10.9%	15.6%
TOTAL	673	632	494

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

Findings

In 2009, the Denver Sheriff Department closed 449 complaint cases involving 497 allegations.

Table 3.3 provides the results of the findings for all DSD complaint cases closed in 2009.

Approximately 42% of the allegations resulted in a sustained finding in 2009.

FINDING	Count	Percent
Sustained	209	42.1%
Unfounded	84	16.9%
Resolved	72	14.5%
Not Sustained	60	12.1%
Declined	38	7.6%
Exonerated	22	4.4%
Unknown Officer	8	1.6%
Mediation	2	0.4%
Resignation	1	0.2%
Informal	1	0.2%
TOTAL	497	100%

TABLE 3.4 FINDINGS FOR COMPLAINT CASES CLOSED IN 2009 BY COMPLAINT SOURCE (DSD 2009)

FINDING	COMPLAINT SOURCE					TOTAL
	Citizen	Employee	Inmate	Management	Unknown	
Sustained	6	1	4	192	6	209
column %	8.7%	10.0%	3.1%	70.3%	31.6%	
Unfounded	21	2	56	5		84
column %	30.4%	20.0%	44.1%	1.8%		
Exonerated	7		5	7	2	21
column %	10.1%		3.9%	2.6%	10.5%	
Not Sustained	19	2	25	12	2	60
column %	27.5%	20.0%	19.7%	4.4%	10.5%	
Resolved	6	2	25	38	1	72
column %	8.7%	20.0%	19.7%	13.9%	5.3%	
Declined	8	1	6	16	5	36
column %	11.6%	10.0%	4.7%	5.9%	26.3%	
Informal				1		1
column %				0.4%		
Mediation		1				1
column %		10.0%				
Unknown	2	1	6	2	3	14
column %	2.9%	10.0%	4.7%	0.7%	15.8%	
TOTAL	69	10	127	273	19	498

Table 3.4 provides the findings for complaint cases closed in 2009 by the complaint source.

Management-initiated complaints were the most likely to be “sustained” (70%) while inmate-initiated complaints were the least likely to result in a “sustained” finding (3.1%).

Imposition of Discipline

Definitions of Disciplinary Actions Taken by the Sheriff Department

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

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

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

Termination removes a deputy from employment by the Sheriff Department.

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

Table 3.5 shows the discipline for sustained cases in 2009 compared with 2007 and 2008.

The most common form of discipline in 2009 was a Written Reprimand, as opposed to prior years where the most common form of discipline was a Verbal Reprimand.

Although 209 cases were sustained in 2009 (Table 3.4), only 196 had discipline imposed at the time of this report as shown in Table 3.5.

DISCIPLINE	YEAR		
	2007	2008	2009
Termination column %		8 4.5%	6 3.1%
Suspension column %	19 10.6%	28 15.8%	28 14.3%
Written Reprimand column %	46 25.7%	48 27.1%	107 54.6%
Verbal Reprimand column %	104 58.1%	81 45.8%	43 21.9%
Cautionary Letter--no discipline column %	5 2.8%	3 1.7%	5 2.6%
Counseled--no discipline column %	5 2.8%	9 5.1%	7 3.6%
TOTAL	179	177	196

Cases Involving Termination, Resignation or Substantial Imposition of Discipline

In 2009, six Deputies were ordered terminated for various acts of misconduct. One deputy, however, was ordered reinstated by the Career Service Authority (CSA). Another two Deputies resigned while serious allegations against them were pending investigation or adjudication by the Department. An additional eight Deputies received suspensions of 10 working days or more.

In comparison, in 2008, eight Deputies were terminated for various acts of misconduct. An additional eight Deputies received suspensions of 10 working days or more. One Deputy resigned while an internal affairs investigation was pending.

Terminations

- A Deputy was terminated based on three separate cases involving failing to obtain authorization for secondary employment and lying to internal affairs, lying to internal affairs regarding sick leave abuse and driving on a suspended license.
- A probationary Deputy was terminated after being accused of domestic violence and for allegations of unauthorized service of a subpoena and making threats during such service.
- A Deputy was terminated for sick leave abuse, presenting false evidence at a pre-disciplinary hearing and lying to internal affairs.
- A Deputy was terminated for using excessive force on an inmate, preparing a false report and lying to internal affairs.
- A Deputy was terminated for making inappropriate comments over the jail intercom, interfering with the internal affairs investigation by trying to influence witness statements and lying to internal affairs.
- A Deputy was ordered terminated for using unnecessary force on an inmate and preparing a false report. The Career Service Authority (CSA) subsequently ordered the Deputy reinstated and suspended for 120 days noting that the Deputy did not lie during the internal affairs investigation.

Resignation (Serious Allegations Pending But Prior To The Issuance Of A Disciplinary Order)

- A Deputy resigned after having been accused of using unauthorized emergency equipment off duty, using unauthorized police powers while off duty, theft of police department equipment and lying to internal affairs.
- A Deputy resigned after being accused of reporting to work while intoxicated.

Substantial Suspension (10 or more Working Days)

- A Deputy was suspended for 90 days (and ordered to attend counseling) after being convicted of animal cruelty (against a rabbit) with department equipment (OC spray) on-duty.
- A Deputy was suspended for 55 days (with 20 days held in abeyance) for writing a false report denying having witnessed another Deputy use force on an inmate and lying to internal affairs. In this mediation settlement, the officer accepted responsibility, agreed to drop her appeal of the disciplinary decision, and accepted other conditions as required by the Manager of Safety.

The Monitor disagreed with the ultimate disciplinary decision, concluding that the Deputy should have served the entire suspension without pay and that there was insufficient cause to hold 20 days of the suspension in abeyance. (For full information on this case see Quarterly Discipline Report, 3d Quarter 2009, at www.denvergov.org/oim).

- A supervisor was suspended for 40 days (with 10 days held in abeyance) for writing an inaccurate report which failed to disclose he witnessed another Deputy use force on an inmate and failing to adequately supervise the incident.
- A Deputy was suspended for 60 days for using a City-issued credit card to purchase alcohol while conducting an out-of-state extradition and for submitting that purchase for reimbursement. The CSA reduced the suspension to 30 days, concluding that the Deputy did not lie during the internal affairs investigation and intended to reimburse the City for the cost of the alcohol.
- A Deputy was suspended for 20 days (with 12 days held in abeyance) and a one-year stipulation to refrain from use of alcohol for accidentally discharging his duty weapon, while off duty, while under the influence of alcohol.
- A Deputy was suspended for 15 days for use of unauthorized leave after having been previously suspended for a similar violation.
- A Deputy was suspended for 10 days after being convicted of Driving Under the Influence of Alcohol while off duty.
- A Deputy was suspended for 10 days after being convicted of Driving Under the Influence of Alcohol while off duty.

Ranks of Officers Receiving Discipline in 2009

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

These include all cases closed in 2009 with sustained findings.

TABLE 3.6 DISCIPLINE BY RANK FOR SUSTAINED CASES (DSD 2009)				
DISCIPLINE	DEPARTMENT RANK			TOTAL
	Deputy Sheriff	Sheriff Sergeant	Captain or Above	
Termination column %	6 3.3%			6
Suspension column %	27 15.0%	1 8.3%		28
Written Reprimand column %	96 53.3%	7 58.3%	4 100.0%	107
Verbal Reprimand column %	42 23.3%	1 8.3%		43
Cautionary Letter column %	4 2.2%	1 8.3%		5
Counseled column %	5 2.8%	2 16.7%		7
TOTAL	180	12	4	196

Patterns

Complaints Per Officer

Table 3.7 shows that in 2009, 495 Deputy Sheriffs (69%) did not receive any complaint against them (an improvement from 2008 when 62.5% of the deputies received zero complaints). 222 Deputy Sheriffs received at least one complaint (fewer than in 2008 when 257 Deputy Sheriffs received at least one complaint).

Approximately, 2.8% of deputies received three or more complaints in 2009 as opposed to 4% of the deputies in 2008.

Force Complaints Per Officer

Only two Deputies received more than one excessive force complaint in 2009 while ten Deputies received one excessive force complaint.

Citizen Complaint Patterns

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

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

Ninety-six percent of those who filed a complaint against DSD officers filed only one complaint during the course of 2009. Approximately 4% filed two or more complaints. Two complainants filed four complaints during the 2009 calendar year.

Demographic characteristics of complainants who filed complaints against DSD in 2009 are presented in Table 3.8. The percent column percentages the missing values while the valid percent column does not.

COMPLAINTS	Count	Percent
Zero	495	69.0%
One	173	24.1%
Two	29	4.0%
Three	14	2.0%
Four	5	0.7%
Five or More	1	0.1%
TOTAL	717	100.0%

Gender	Count	Percent	Valid Percent
Male	127	64.5%	66.1%
Female	65	33.0%	33.9%
No Information	5	2.5%	
Total	197	100%	100%
Race	Count	Percent	Valid Percent
White	75	38.1%	39.9%
Black	63	32.0%	33.5%
Hispanic	48	24.4%	25.5%
American Indian	1	0.5%	0.5%
Asian/Pacific Islander	1	0.5%	0.5%
No Information	9	4.6%	
Total	197	100%	100%
Age	Count	Percent	Valid Percent
18 - 24	24	12.2%	14.8%
25 - 30	26	13.2%	16.0%
31 - 40	37	18.8%	22.8%
41 - 50	38	19.3%	23.5%
Over 50	37	18.8%	22.8%
No Information	35	17.8%	
Total	197	100%	100%

Table 3.9 shows that 36.7% of the complaints against DSD occurred at the Denver County Jail in 2009, a reduction for the County Jail from 2008 when 44% of the complaints against DSD occurred at the County Jail.

The City Jail, also known as the Pre-Arrestment Detention Facility (or PADF), accounted for 30.4% of the complaints, a decrease for that facility from 2008 as well when 32.5% of the complaints were attributed to that facility.

There was a significant increase in the number of complaints filed at the training facility (from 2 in 2008 to 13 in 2009).

LOCATION	Count	Percent
County Jail	169	36.7%
City Jail	140	30.4%
Court Service	26	5.6%
Vehicle Impound Facility	7	1.5%
Denver Health Medical Center	10	2.2%
Training	13	2.8%
Other	96	20.8%
TOTAL	461	100%

Commendations & Awards

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

Definitions for some of the departmental awards are provided in Table 3.10

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

The Sheriff Department presented 95 commendations and awards to DSD employees in 2009. Detailed descriptions of awards granted by the DSD during the course of 2009 is located in Appendix H of this report, at www.denvergov.org/oim.

As indicated in Table 3.11, the most frequent awards were “Letters of Appreciation” (n=27) followed by community service awards (n=19).

There were no letters of appreciation awards for 2007 as this was a new category created in 2008.

COMMENDATION	YEAR		
	2007	2008	2009
Supervisory Commendation column %	6 6.5%	27 30.3%	8 6.7%
Commendation from Director column %	36 38.7%	4 4.5%	11 9.2%
Letters of Appreciation column %		41 46.1%	27 22.7%
Community Service Award column %	22 23.7%	29 32.6%	19 16.0%
Distinguished Service Award column %			4 3.4%
Employee of Quarter column %	4 4.3%	12 13.5%	4 3.4%
Employee of Month column %			24 20.2%
#1 Academic Award column %	3 3.2%	2 2.2%	1 0.8%
#1 Defensive Tactic Award column %	3 3.2%	2 2.2%	1 0.8%
#1 Physical Fitness Award column %	3 3.2%	2 2.2%	1 0.8%
Most Improved Physical Fitness Award column %	3 3.2%	2 2.2%	1 0.8%
Top Gun Award column %	3 3.2%	2 2.2%	1 0.8%
Valedictorian column %	3 3.2%	2 2.2%	1 0.8%
Academy Medal column %		2 2.2%	1 0.8%
Merit Award column %	5 5.4%	2 2.2%	8 6.7%
Life Saving Award column %	1 1.1%		5 4.2%
Medal of Valor column %	1 1.1%	1 1.1%	2 1.7%
TOTAL	93	89	119

Timeliness

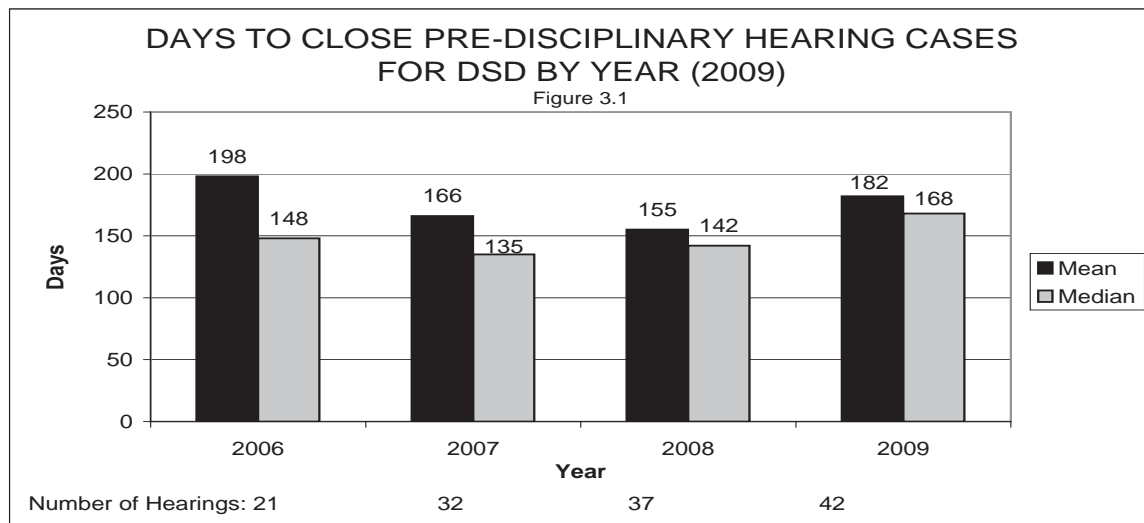
A critical priority in dealing with complaints is the need to resolve them in a timely manner. Providing recommendations on how to improve the timeliness of complaint handling has been a priority for the Office of the Independent Monitor (OIM) since its inception.

For information on timeliness goals established by the Monitor for DSD handling of complaints and the status of the Department's achievement of such goals, see Appendix F, which can be found online at www.denvergov.org/oim.

Timeliness of Pre-disciplinary Hearings

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

The Monitor compared the timeliness for the imposition of discipline for Sheriff cases where pre-disciplinary hearings were conducted. In last year's annual report, we were able to report that the timeliness in the imposition of discipline had improved significantly over the last three years. In 2009, however, the average number of days to complete a case where a pre-disciplinary hearing was conducted increased to 182 days from 2008, where the average number of days was 155. The number of pre-disciplinary hearings that were conducted, however, increased as well (from 37 in 2008 to 44 (two cases involved two separate pre-disciplinary hearings) in 2009) which potentially accounts for at least part of the decrease in timeliness in 2009.



The Monitor is hopeful that timeliness in the imposition of Sheriff discipline can be improved once new processes are put into place by the Manager of Safety's Disciplinary Advisory Group. Specifically, the Monitor is recommending that deputies be permitted to waive a pre-disciplinary hearing and accept disciplinary recommendations made by the Division Chief who is within the deputies' chain-of-command (with the concurrence of the Director of Corrections and the Manager of Safety.) In 2009, the Department conducted more pre-disciplinary hearings than ever before (n = 42). Allowing deputies to accept discipline would reduce the workload of the Director of Corrections and the Division Chiefs allowing them to better use their valuable time and further increase the timeliness in the imposition of discipline.

Timeliness Issues Regarding IAB Investigations and Findings

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

In order to achieve this goal, the staffing at the Internal Affairs Bureau needs to be adequate. The Monitor's Office is concerned that in 2009, the staffing in the Sheriff's Internal Affairs Bureau was reduced from five Sergeant-investigators to four. As a result, and due to an increased number of unauthorized leave investigations, IAB staff had a greater strain on its resources in 2009 than in preceding years, which has made it more difficult to complete its investigations in a timely fashion. As an example of these difficulties, for the first time since monitoring started, Sheriff internal affairs has a number of cases still open that are over one-year-old as of the end of the calendar year.

Descriptions of Denver Sheriff Department Cases Over One Year Old as of December 31, 2009

Case #1: Opened May 2008. Case alleges unnecessary force by one Deputy and the failure to report the force by other Deputies. The case was delayed by the criminal prosecution of the Deputy alleged to have used the unnecessary force. The District Attorney eventually dismissed the criminal charges on April 20, 2009. The subsequent internal investigation was delayed by the need to identify and interview additional subject Deputies and had still not been completed by the end of 2009.

Case #2: Opened July 2008: Case alleges insubordination by a Deputy. The case was delayed when the subject Deputy went off on medical leave for an extended period of time. The case was further delayed when additional investigation was requested by the Manager of Safety in May 2009. The investigation was finally completed in December 2009 and the case is pending a pre-disciplinary hearing.

Case #3: Opened September 2008. Case involves allegations domestic violence and careless driving off-duty. The case was delayed by the criminal prosecution of the subject Deputy, which resulted in a case disposition on January 6, 2009. The subsequent internal investigation was still not completed as of the end of the year.



DENVER
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CHAPTER 4

CRITICAL INCIDENT REVIEW

The Monitor's Critical Incident Roll-out Protocol

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

OIM Established Roll-Out Protocol

In 2005, the Monitor's Office established a "Roll-Out Protocol" which has guided the office in determining those cases requiring on-scene visits and active monitoring throughout the entirety of an investigation. Through this protocol, the OIM advised DPD and DSD of the need to be notified and the intent to "roll-out" to the scene of the following critical incidents:

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

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

The Monitor's Office "rolled out" to three DPD officer-involved shootings, and two DPD in-custody deaths in 2009. In addition, the OIM also "rolled out" to the City and County Jails for one in-custody suicide and four medical deaths that occurred during the course of the year. There was one additional in-custody death where the inmate suffered a seizure in a holding cell at Denver Health and subsequently died, that did not involve an OIM "roll out."

Officer Involved Shooting/In Custody Death Statistics

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

Number of On-Duty Intentional Officer-Involved Shootings: 3

Number of Off-Duty Officer-Involved Shootings: 0

Number of Animal Shootings: 2 (1 deer – hit; 1 dog – not hit)

Number of Accidental Discharges: 4

Results of Officer Shots Fired: 3 fatalities

Number of Injuries to Officers: 0 officers injured.

Number of Shooting Officers: 4

Rank of Shooting Officers: 1 Technician, 3 police officers

Race/Gender of Shooting Officers: 3 White Males, 1 Hispanic Male.

Years of Service of Shooting Officers:

Probationers (under one year): 0

Between 1-5 years: 4

Between 6-10 years: 0

Between 11-15 years: 0

Between 16-22 years: 0

Assignments of Officers involved in DPD Shooting Incidents:

District 1: 0

District 2: 1

District 3: 0

District 4: 2

District 5: 0

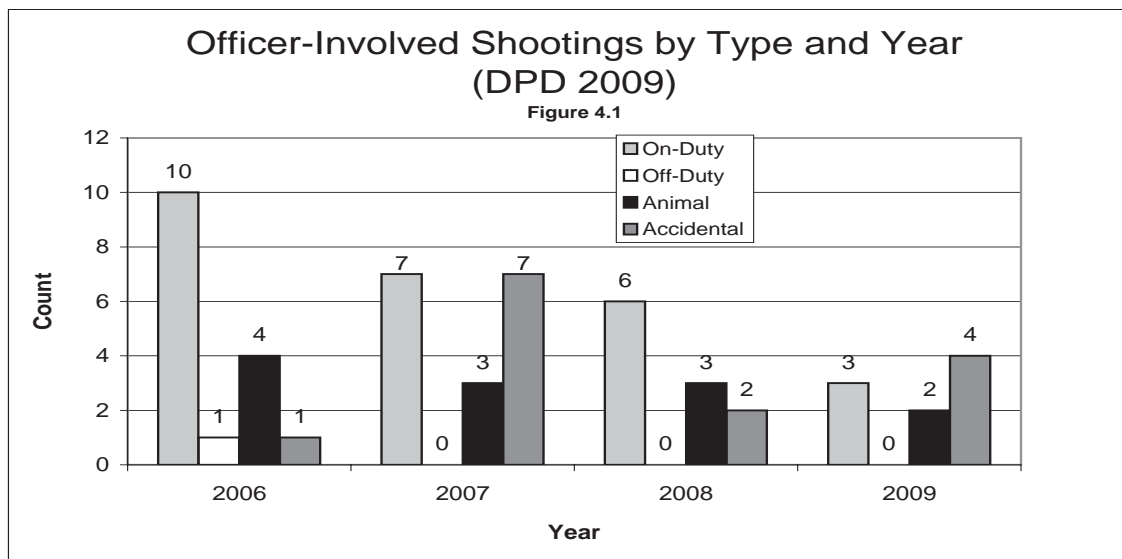
District 6: 0

Gang Bureau: 0

SWAT: 0

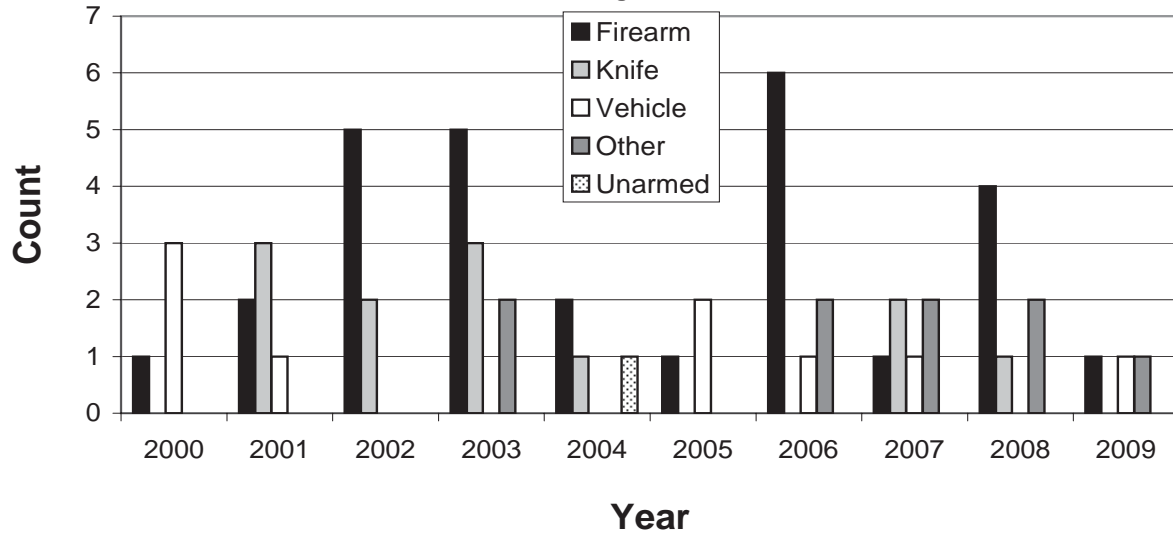
Traffic Operations: 1

Race/Gender of Subjects: 1 Black Male, 2 Hispanic Males



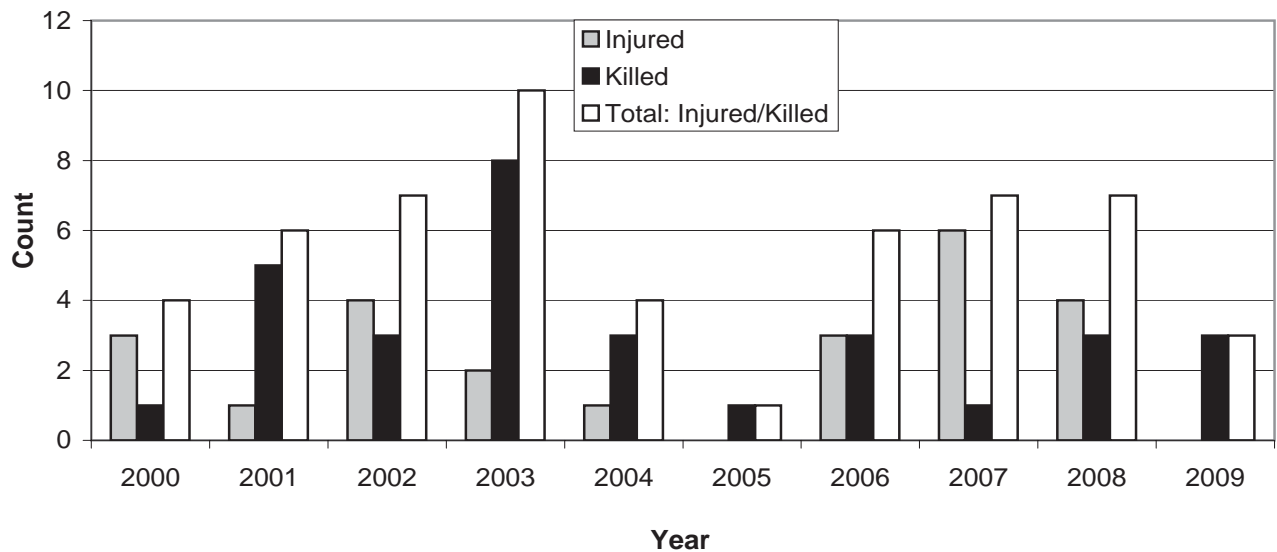
**Officer-Involved Shootings by Suspect Weapon Type and Year
(DPD 2009)**

Figure 4.2



**Officer-Involved Shootings by Outcome and Year
(DPD 2009)**

Figure 4.3



Summary and Status of 2009 Officer-Involved Shootings, Investigations, and Review Processes

There were three officer-involved shootings in 2009.

Incident #1

February 26, 2009: An officer assigned to a Driving under the Influence (DUI) suppression detail attempted to make a traffic stop. The suspect failed to stop and stalled out his vehicle after attempting to evade the officer. The officer shot and killed the suspect after the suspect gunned his engine while the officer was standing in front of the suspect vehicle.

A District Attorney officer-involved shooting investigation letter was issued on March 17, 2009 (See, denverda.org/News_Release/Decision_Letters). A letter finding the shooting “in-policy” was issued by the Manager of Safety on August 26, 2009 (See, denvergov.org/Safety/PublicStatementsfromtheManagerofSafety).

The shooting officer was faced with a deadly threat when the subject indicated his intent to escape even if that escape were to involve seriously injuring or killing the officer who was approaching the vehicle to arrest the subject for possibly driving under the influence, reckless driving and evading.

Pursuant to Ordinance and Protocol, the Monitor participates in and observes the investigation of the incident, reviews the case and observes the Use-of-Force Review Board and any Tactics Review Board that results from the case. The Monitor also reviews the District Attorney’s charging decision and explanatory letter and provides input to both the Chief of Police and the Manager of Safety. The Monitor’s independent determination that the deadly use of force was justified in this case was based upon his involvement as noted above, and his review of the facts of the case. Those facts are detailed in the Manager of Safety’s extensive report (issued on August 26, 2009) on the incident. That report can be found at www.denvergov.org/safety/ by clicking on the Public Statements of the Manager of Safety tab.

Incident #2

July 2, 2009: Officers responding to a domestic violence call shot and killed a subject who brandished a replica firearm at the officers and threatened to shoot them.

A District Attorney officer-involved shooting investigation letter was issued on July 16, 2009 (See, denverda.org/News_Release/Decision_Letters). A letter finding the shooting “in-policy” was issued by the Manager of Safety on January 1, 2010 (See, denvergov.org/Safety/PublicStatementsfromtheManagerofSafety).

The shooting officers were faced with a subject who was intent on committing “suicide by cop.” The subject approached the officers after having threatened to shoot them with a very real looking firearm in his hand which he then pointed at the officers. The officers were in fear for their lives when they fired their weapons.

Pursuant to Ordinance and Protocol, the Monitor participates in and observes the investigation of the incident, reviews the case and observes the Use-of-Force Review Board and any Tactics Review Board that results from the case. The Monitor also reviews the District Attorney’s charging decision and explanatory letter and provides input to both the Chief of Police and the Manager of Safety. The Monitor’s independent determination that the deadly use of force was justified in this case was based upon his involvement as noted above, and his review of the facts of the case. Those facts are detailed in the Manager of Safety’s extensive report (dated January 1, 2010) on the incident. That report can be found at www.denvergov.org/safety/ by clicking on the Public Statements of the Manager of Safety tab.

Incident #3

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

A District Attorney officer-involved shooting investigation letter was issued on January 2, 2010 (See, denverda.org/News_Release/Decision_Letters). A public report relating to this incident is expected from the Manager of Safety by June 13, 2010. The case is pending further investigation by internal affairs and review by the use-of-force review board.

The administrative review will include an evaluation of the shooting as well as the head strikes used to subdue the subject after he was shot.

2008 Officer-Involved Shooting Where Administrative Review was Pending as of Issuance of 2008 Annual Report

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

A District Attorney officer-involved shooting investigation letter was issued on January 22, 2009 (See, denverda.org/News_Release/Decision_Letters). As the shooting did not involve a fatality, no letter from the Manager of Safety was prepared.

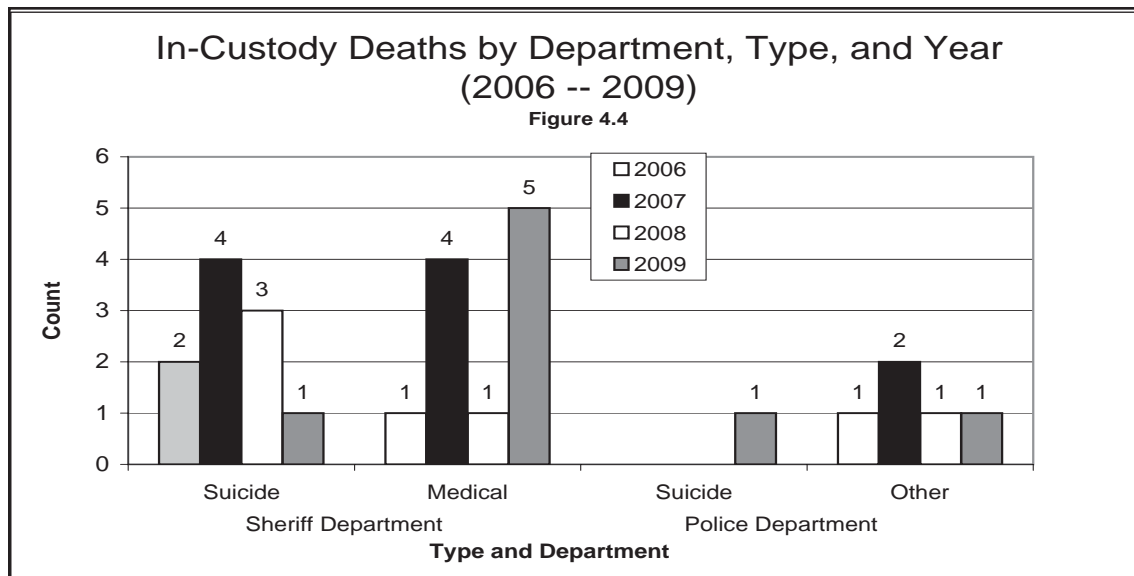
A use-of-force review board was convened on April 28, 2009. The Chief of Police determined that the shooting was “in-policy.” The Monitor concurred with the Department’s evaluation of the case. Although it turned out that the suspect was, in fact, armed only with a crucifix, the officer was reasonable in believing that he was potentially armed with an edged weapon. The suspect was clearly intent on committing “suicide by cop” when he ran towards the officer, brandishing something in his hand and refusing to comply with the officer’s command to stop. Although the results were tragic, the officer was reasonably in fear of his life when he shot the subject and was, therefore, justified in his actions.

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

There were eight in-custody deaths in 2009, four in the Denver County Jail, one in the City Jail, one at Denver Health Medical Center and two after subjects were taken into custody by Denver Police officers.

In-Custody Suicides & Medical Deaths

There was only one suicide committed by an inmate in the Denver County Jail in 2009 down from three in 2008.



There were three medical-related deaths in the County Jail in 2009, one medical-related death in the City Jail and one medical-related death at a holding facility at Denver Health Medical Center.

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

An internal affairs investigation was conducted with regard to a medical related death at the County Jail on February 5, 2009. The Department's review of the investigation determined that the inmate died from a pre-existing medical condition. No policy violations were identified. The Monitor concurred with the Department's evaluation of the case.

An internal affairs investigation was conducted with regard to a medical death at the County Jail on April 19, 2009. The Department's review of the investigation determined that the inmate died from a pre-existing medical condition. No policy violations were identified. The Monitor concurred with the Department's evaluation of the case.

An internal affairs investigation was conducted with regard to a medical death at the County Jail on May 21, 2009. The Department's review of the investigation determined that the inmate died from a pre-existing medical condition. No policy violations were identified. The Monitor concurred with the Department's evaluation of the case.

An internal affairs investigation was conducted with regard to a medical related death that took place at Denver Health Medical Center on August 5, 2009. The administrative review process was still pending as of the writing of this report.

An internal affairs investigation was conducted with regard to a suicide that took place at the County Jail on September 17, 2009. That investigation was still pending as of the writing of this report.

An internal affairs investigation was conducted with regard to a medical death at the City Jail on November 28, 2009. That investigation was still pending as of the writing of this report.

In-Custody Death Investigation Not Resolved Until After Publication of 2008 Annual Report

An Internal Affairs investigation was initiated with respect to a County Jail suicide that took place on October 22, 2008. No policy violations were identified. However, the Department updated its post orders for the County Jail control center to ensure that deputies assigned to that post would immediately call for an emergency ambulance upon identification of a medical emergency at the jail. The Monitor concurred with the Department's evaluation of the case.

An internal affairs investigation was conducted with respect to a County Jail suicide that took place on October 26, 2008. No policy violations were identified. The Monitor concurred with the Department's evaluation of the case.

Denver Police Department In-Custody Deaths

Incident #1: A subject died on May 24, 2009 after he was restrained by private security at a downtown club. The involved officer handcuffed the subject and, within moments thereafter, determined that the subject was not responsive. An ambulance was summoned, but the subject subsequently died. No District Attorney letter was issued as there was no evidence that the officer's actions caused the subject's death. A Use-of-Force Board reviewed the case on September 9, 2009 and determined that no policy violations occurred. The Monitor concurred with the Department's evaluation of the case.

Incident #2: On August 13, 2009, a subject committed suicide while being detained by officers who were in the process of searching his residence for narcotics. The subject had been calm and cooperative and had asked (due to a physical disability), to be handcuffed in the front. The subject grabbed a nearby glass object, broke it and slashed his own throat. An ambulance was summoned, but the subject did not survive. No District Attorney letter was issued as there was no evidence that the officers' actions caused the subject's death. A Use-of-Force Board reviewed the case on December 21, 2009 and determined that no policy violations occurred. The Monitor concurred with the Department's evaluation of the case.

"Excited Delirium" Policy Review

In last year's annual report, the Monitor noted four in-custody deaths within the last three years, wherein Denver Police officers restrained individuals who appeared to be under the influence of drugs and who subsequently died. Each of these cases found no policy violations on the part of the involved officers and the autopsy reports were generally unable to tie the deaths to any police use of force.

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

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

Although the Monitor was aware that the Police and Sheriff Departments both have training and policies in place relating to this issue, the Monitor attended specialized training in late 2009 to research national best practices into training and policies relating to “excited delirium” deaths. In the upcoming year, the Monitor’s Office will examine these policies, as well as the policies of the Combined Communications Center and then confer with Police and Sheriff command staff and the Manager of Safety to determine if any additions or changes to policy and training in this area would be beneficial.



DENVER
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CHAPTER 5

SPECIAL INITIATIVES AND POLICY ISSUES

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

In June of 2008, the Monitor's Office published the Police Assessment Resource Center (PARC) report which reviewed Police Department deadly force policies and evaluated the quality of the investigations and administrative reviews of officer-involved shootings for a four-year period (1999-2003). Although a review of the criminal investigation and review process for officer-involved shootings had been conducted by the "Erickson Commission" in 1997, no overall review of deadly force policies or the administrative review process for officer-involved shootings had ever been conducted.

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

In January of 2009, the Police Chief provided the Monitor with a formal response to the report's recommendations. (The response to the report is available on the OIM website, located at www.denvergov.org/oim).

In our last annual report, it was noted that the Monitor would work with the DPD during the course of the year to implement those recommendations which were accepted by the Chief or accepted in concept or in part.

The Monitor can now report that the following recommendations have either been implemented or will be implemented in the near future.

Department deadly force policies are being updated to 1) include the Constitutional right of each individual to be free from all forms of excessive force; 2) redefine the definition of force; 3) consolidate and make consistent the circumstances under which deadly force can be used; and 4) consolidate statements about community expectations and reasonable force. In addition, the policies are also being updated to adopt new language regarding shooting at moving vehicles and to ensure officers are aware of the consequences of unnecessarily or prematurely drawing or exhibiting a firearm.

The Department also agreed to remove the "sap" (or black jack)¹, the flashlight and firearms as authorized impact weapons.

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

1 Usually a leather-covered flat or round piece of lead.

In addition, Department training on deadly force has been revised as recommended by PARC – to include eliminating any possible suggestion from “Officer Survival Training” that officers engaged in community policing are placing themselves at greater risk of death than officers who do not engage in such activities.

Recommendations regarding changes to Department Canine policies and training are still pending review by the SWAT Bureau where the Canine Unit is housed.

Recommendations Not Adopted by the Department in 2009

During the course of the year, the Chief decided not to accept PARC’s recommendation that DPD adopt a policy similar to that used by the Department of Justice, the District of Columbia Metropolitan Police Department and the Los Angeles Police Department that forbids an officer from shooting at a fleeing felon unless the suspect fleeing poses an immediate threat of serious bodily injury or death. The Monitor agrees that the Department’s current policy is in accord with federal and state law, which permits a law enforcement to use deadly force to arrest or prevent persons in custody from escaping under certain circumstances. The Monitor agrees with the Chief that the PARC recommendation would cause the DPD to adopt a policy more restrictive than is required by the Constitution and Colorado statutes and agrees that reasonable minds may differ on this issue. However, the Monitor does also support PARC’s recommendation in this regard and notes that it is in accord with the accepted policy of some leading police departments and the expectations of many members of the community.

The Chief has also taken no action to convert the Department’s excellent training on foot pursuits to policy or to adopt the International Association of Chief’s of Police (IACP) model policy which seeks to limit dangerous foot pursuits. The Monitor continues to believe that the existence of a foot pursuit policy would be good for the Department. It is important to note, however, that the failure to have such a policy does not stop (and should not stop) the Department from disciplining an officer who becomes involved in a force incident as a result of bad tactics, which could include a force incident that takes place because of an officer’s failure to act per DPD training with respect to foot pursuits.

“Departing From The Truth”

In past Annual Reports, the Monitor has expressed concern regarding a history of the Police and Sheriff Departments’ failure to terminate employees who have been “sustained” for lying during Internal Affairs investigations. As of October 1, 2008, the Police Department initiated a new “Disciplinary Matrix” which calls for presumptive termination for an officer who has “willfully, intentionally, or knowingly committed a materially deceptive act. . .in connection with any investigation, . . .judicial or administrative proceeding.” The Sheriff’s Department is expected to adopt a similar disciplinary matrix as of July 1, 2010.

During the course of 2009, the Monitor specifically recommended that the Manager of Safety and Director of Corrections immediately implement a policy of presumptive termination for any Sheriff Deputy who is sustained for “Commission of a Deceptive Act.” The Manager of Safety, however, has chosen to wait until the adoption of the new Sheriff matrix before making such a violation subject to the penalty of presumptive termination.

Police Department Policy Change Regarding Identifying Officers Involved In Referrals To “Denver Cares” Detox Center

Over the past few years of monitoring, the OIM noted that, in some cases, Internal Affairs Bureau investigators found it very difficult to investigate complaints wherein the complainant was sent to “Denver Cares” Detoxification Center by officers working off duty in LoDo. In these cases, complainants would allege that they were sent to “Detox” inappropriately or in retaliation for the exercise of a lawful right.

As of November 2009, the Department, working with the Combined Communications Center, and at the recommendation of the OIM, implemented a new policy which requires officers to call into dispatch and identify themselves and the person who has been transferred to the custody of “Denver Cares.” By implementing this new policy, it should be much easier to identify which officer was involved in a specific incident and, thereby, reduce the likelihood that Internal Affairs will not be able to identify an involved officer.

Police Department Limits Discretion By Vice Unit

The Monitor actively monitored an internal complaint involving the arrest of a State Patrol trooper for solicitation of prostitution as part of a Vice Unit sting operation. The investigation was initiated by Department command staff once they learned that the involved officers, after citing the trooper for a law violation, did not book the trooper into custody nor impound his vehicle.

The case was eventually resolved by counseling the involved employees. No discipline was imposed because there was no specific policy violation that could be identified. Although the officer’s conduct had the appearance of showing favoritism to another law enforcement officer, there was no specific policy which forbade that type of preferential treatment.

At the recommendation of the Monitor, the Vice Drug Control Bureau created a new policy which reads: “When making arrests or seizing property, Vice/Drug Control Bureau officers shall not exercise their discretion whether or not to arrest or book an offender, or seize an offender’s vehicle or property based solely upon the offender’s professional or employment status (e.g., lawyer, doctor or other professional, police officer, judge, prosecutor or fire fighter).”

Video Cameras In Patrol Cars

The Monitor continues to recommend that the Chief of Police and the Manager take action to find funding for placing video cameras in patrol cars or on individual police officers.

The Monitor has noted that there are two unnecessary force complaints pending investigation or administrative review where the existence of HALO (High Activity Location Observation) cameras provided video evidence that will be used by command staff in making their findings. Without the existence of this evidence, command staff would have been forced to rely on statements of witnesses and officers without any visible corroboration.

Monitor's Continuing Concerns Regarding Entries Made Into Private Residences

As in 2008, during the course of 2009, the Monitor noted some cases wherein officers allegedly made entry into private residences without consent, a warrant, or exigent circumstances. In certain cases, the officer's command staff and/or Internal Affairs believed that the officers' actions were reasonable, however, legal research highlighted concerns that the officers' actions may not have been Constitutionally permissible.

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

Since the publication of the first Civil Liability Newsletter, no additional newsletters have been published. However, in 2009, a training bulletin relating to when officers are Constitutionally permitted to conduct "protective sweeps" (to ensure there is no danger to an officer who is legally present at a residence) was completed and distributed. A second training bulletin, dealing with when an officer can conduct a "consent search" was issued in early 2010.

The Monitor is hopeful that the Department will give these important training bulletins priority in the upcoming year. This training will help to ensure the Constitutional rights of the Denver community and protect the city from future civil liability.

Over the course of the year, the Monitor's Office has found it necessary to intervene on numerous occasions regarding the issue of warrantless entries into residences. The Monitor is hoping that, in the upcoming year, District Command Staff will familiarize themselves with the legal requirements for such entries and that any need for Monitor intervention in this area will be reduced.

Training Recommendation Still Pending

The Monitor reported in our last annual report that the Department "agreed to provide additional training to its officers on the rights of the media vis-à-vis private property owners in the Department's Civil Liability Bureau Newsletter." As of the end of 2009, however, that task had still not been completed.

Sheriff Department Ability To Track Uses Of Force By Its Deputies

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

The Monitor has been advised that the newly installed "Jail Management System" (JMS) has the capability of tracking uses-of-force by deputy sheriffs. As of the end of the year, however, JMS has not been used for that purpose. This database could be a helpful tool to ensure identification of any officer who may be using force more than similarly situated officers and who could benefit from training or mentoring. The Monitor anticipates that the Sheriff's Department will take some action in 2010 to implement this tracking system.

New Department Of Safety Policy Regarding Fraternization Between Supervisors And Subordinates

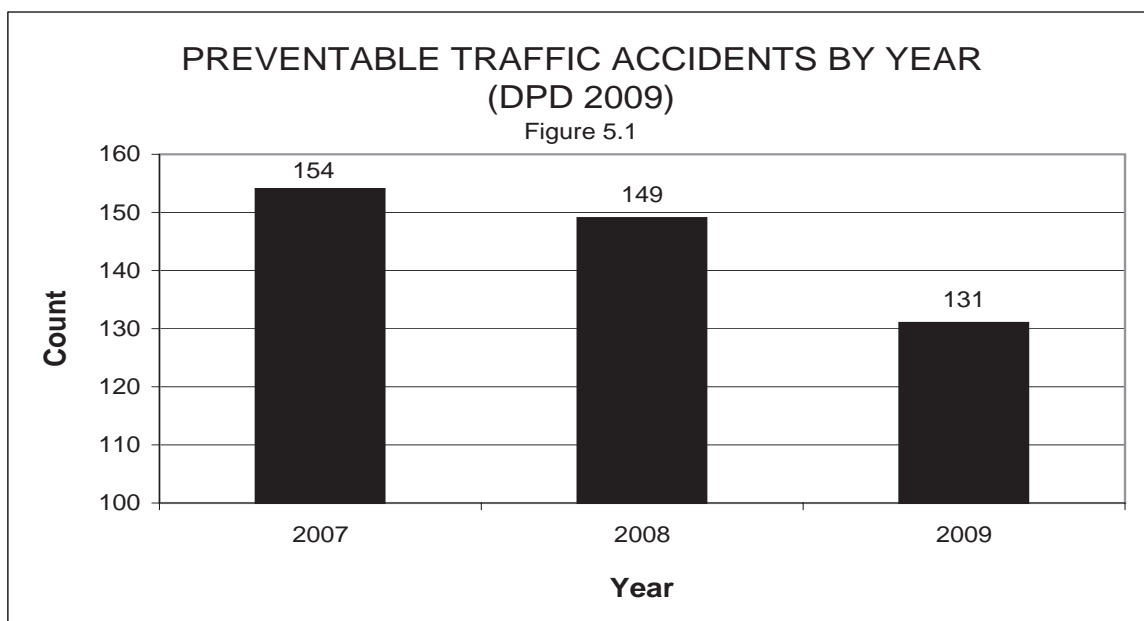
During the course of the year, the Manager of Safety worked on a new policy which forbids all supervisors in all the Safety Departments (including Police, Sheriff, and Fire) from being involved in “intimate or romantic” relationships with a subordinate in their direct line-of-command. Further, the new policy prohibits any employee who has supervisory authority over a probationary employee from seeking or entering into an intimate or romantic relationship with a probationer. The policy also forbids a probationer from seeking or entering into an intimate or romantic relationship with any other employee who has supervisory authority over the probationer. The new policy is anticipated to be enacted in early 2010.

The Monitor has noted a number of cases, over the years, where relationships between supervising and subordinate officers have created, at a minimum, appearances of conflict or have had negative effects or resulted in negative perceptions by other employees. The Monitor applauds the Manager and his EEO Coordinator for their work in implementing a policy which has been based on an evaluation of practices nation-wide.

Risk Management Issues – Tort Claims & Preventable Traffic Collisions

Protecting the City from liability by ensuring best practices by the Police and Sheriff Departments has always been a high priority for the OIM. Over the last year, the OIM noted some deficiencies in data collection which make it more difficult for City Managers to identify potential patterns that could be the cause of continuing or future liability.

1. The Monitor’s Office has chosen, in the past, not to monitor “scheduled discipline” wherein the Police Department has created a specific disciplinary table to handle cases such as “preventable traffic collisions,” and photo-radar and red light traffic citations. The Monitor has noted, however (as indicated in Chapter 2 of this report), that the number of officers sustained for preventable traffic collisions has decreased over the last three years, as shown in Figure 5.1.



While this downward trend is, potentially, good news, the question remains as to whether the City is engaging in best practices by imposing discipline (in addition to remedial driving training) in the current manner.

In order to facilitate a better understanding of what, if anything, the City can do to reduce liability (and harm to innocent civilians and injuries to officers) in this area, the Monitor recommends that the Department use any data that may be available to see how it compares to other Cities in order to determine if the current disciplinary structure helps or harms the City's needs.

2. The Monitor would also be interested in reviewing how much money has been paid out by the Police and Sheriff's Departments, based on allegations of misconduct, over the course of the past few years. Unfortunately, the Department of Safety has no data information in this regard and has no tools to identify trends in litigation which could be used to identify, on a systemic basis, where training resources or policy reviews would be best used.

Therefore, the Monitor recommends that the Department of Safety create a database and begin to keep the necessary data in order to facilitate a better understanding of what, if anything, the Police and Sheriff Departments can do to reduce liability (and harm to innocent civilians and injuries to officers) specifically relating to claims of excessive force and other Constitutional rights violations.

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