



INTRODUCTION AND OVERVIEW

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

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

DENVER POLICE DEPARTMENT

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

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



Monitor's Office is primarily concerned with potential violations of Police Department rules and policies.

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

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

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



Chief of Police. Both the Chief's recommendation and that of the Monitor are forwarded to the Manager of Safety for his consideration.

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

Timeliness:

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

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

Officer-Involved Shooting Cases Pending Administrative Review as of the end of the 2nd Quarter, 2008:

- **April 4, 2008:** SWAT officers shot and killed a narcotics suspect while making a forced entry into his apartment to execute a search warrant. A District Attorney shooting letter was issued on April 21, 2008 (See, denverda.org/News_Release/Decision_Letters). The Homicide investigation was deemed complete and the case was heard by a Use-of-Force Board on June 25, 2008. As the case involved a fatality, a public report from the Manager of Safety is pending.



- **May 17, 2008:** Officers responding to a domestic disturbance made contact with a suicidal man who was armed with a knife. Officers attempted to use less lethal instruments including a “pepper-ball” gun and a taser to subdue the suicidal man. Officers eventually shot and killed the man, who was armed with a knife and, reportedly, advancing on an officer in an aggressive manner. A District Attorney shooting letter was pending as of the end of the quarter.
- **June 22, 2008:** Officers responded to a gunfight in lower downtown at closing time. Two individuals fired multiple shots at each other, injuring numerous bystanders. Officers confronted a man armed with a shotgun and shot and injured him after he fired a shot at an officer. Officers then shot and killed a second man who picked up the shotgun and pointed it at the officers after the shotgun was dropped by the first man. A District Attorney shooting letter was pending as of the end of the quarter.

Officer-Involved Shooting Cases Administratively Closed in the 2nd Quarter, 2008:

- **April 4, 2007:** An officer fired one shot at a suspect who was attempting to escape apprehension by driving his vehicle directly at the officer— the suspect was injured and later arrested after evading pursuing officers. A District Attorney shooting letter was issued on May 7, 2007 (See, denverda.org/News_Release/Decision_Letters). The Monitor was concerned about the officer’s tactics in driving past the suspect vehicle during the course of a slow speed pursuit, conducting a forced stop of the vehicle and then stepping in front of the suspect vehicle, all of which put the officer in positions of danger. The Manager of Safety concluded the officer’s tactics did not rise to the level of a policy violation. Although the officer put himself in a position of vulnerability when he stepped in front of the suspect vehicle, the suspect was, at the time, assaulting the driver of the vehicle, and the officer was attempting to determine whether he needed to take immediate action to assist the driver. The Manager did conclude that the case could be used as a training opportunity for both the officer and others in the Department.



- **December 19, 2007:** An officer was on routine patrol late at night when he decided to run a routine check on a vehicle plate to see if the vehicle was stolen. When he started to follow the vehicle, the driver stopped the vehicle and ran from the officer. At the conclusion of a short foot pursuit, the suspect confronted the officer, brandished what appeared to be a firearm and threatened to kill the officer while identifying himself as a member of a criminal street gang. The officer fired two shots at the suspect, who continued to approach and challenge the officer. The officer fired four more shots at the suspect, who was fatally injured.

On January 24, 2008, the District Attorney issued a public letter concluding that no criminal charges would be filed against the involved officer. (See, denverda.org/News_Release/Decision_Letters).

The Use-of-Force Board reviewed the incident on February 26, 2008.

A public report from the Manager of Safety was issued on June 19, 2008 concluding that the involved officer acted within the policies and expectations of the Department of Safety. (See, www.denvergov.org/Safety/PublicStatementsfromtheManagerofSafety). The Monitor concurs with the Manager's decision to find the shooting "in-policy."

In-Custody Death Cases Pending Administrative Review as of the end of the 2nd Quarter, 2008:

- **October 2007. Fatal Traffic Collision.** A passenger died after the vehicle in which he was traveling was struck by a police car traveling Code-10 (driving with lights illuminated and siren audible) through a red light. The involved officer was charged by the Denver District Attorney's Office with two misdemeanor charges (careless driving causing death and careless driving causing substantial bodily injury). The administrative review of the incident has been suspended pending the conclusion of the criminal prosecution.



In-Custody Death Cases Administratively Closed in the 2nd Quarter 2008:

- **October 2007. In Custody Death.** A suspect died after being taken into custody using take-down and control holds. Due to delays in obtaining an autopsy report, the Use of Force Board could not be conducted until June 25, 2008. The Department concluded that the involved officers committed no policy violations in taking into custody a suspect suffering from cocaine intoxication who had broken into a residence and then resisted being taken outside the residence. The case did not involve the use of a taser or any impact weapons. The Monitor concurs with the Department's decision.

DENVER SHERIFF DEPARTMENT

In-Custody Death Investigation and Review Protocol:

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

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



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

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

The Independent Monitor reports to the public on all disciplinary orders issued by the Manager of Safety on a quarterly basis and in his Annual Report, which is released by March 15th of each year.

Timeliness:

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



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

Sheriff In-Custody Death Cases Pending Administrative Review as of the end of the 2nd Quarter 2008:

- None

Sheriff In-Custody Death Cases Administratively Closed in the 2nd Quarter, 2008:

- **February, 2008 In-Custody Death.** An inmate committed suicide in the County Jail. No misconduct was identified. DSD officers were determined not to have been responsible for the inmate's death. No report from the Manager of Safety is required.