



**DENVER**  
OFFICE OF THE  
INDEPENDENT MONITOR

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# 2014 Annual Report

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Nicholas E. Mitchell  
Independent Monitor



# The Office of the Independent Monitor

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The Office of the Independent Monitor (“OIM”) is charged with working to ensure accountability, effectiveness, and transparency in the Denver Police and Sheriff disciplinary processes. The OIM is responsible for:

- ♦ Ensuring that the complaint and commendation processes are accessible to all community members;
- ♦ Monitoring investigations into community complaints, internal complaints, and critical incidents involving sworn personnel;
- ♦ Making recommendations on findings and discipline;
- ♦ Publicly reporting information regarding patterns of complaints, findings, and discipline;
- ♦ Making recommendations for improving Police and Sheriff policy, practices, and training;
- ♦ Conducting outreach to the Denver community and stakeholders in the disciplinary process; and
- ♦ Promoting alternative and innovative means for resolving complaints, such as mediation.

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## FROM THE INDEPENDENT MONITOR

March 11, 2015

This is a critical time in policing and law enforcement oversight. Many communities around the country have initiated important but challenging conversations about race and police accountability. At the same time, tragic events in Denver and beyond provide stark reminders that policing can be a difficult and dangerous job. Now more than ever, police leaders, rank-and-file officers, and community members need to partner to ensure that our neighborhoods are free from serious crime, officers are empowered to execute their duties safely, and citizens are treated fairly.

Denver's leaders have embraced this moment as an opportunity for dialogue and reform. In December 2014, Mayor Michael B. Hancock hosted a roundtable conversation on race relations with officers, students, community members, legislators, faith-leaders, and others. Under the leadership of reform-minded Chief Robert White, the Denver Police Department ("DPD") has made strides towards increasing community trust. The Denver Sheriff Department ("DSD") is also working hard to improve deputy and inmate well-being. The Office of the Independent Monitor ("OIM") has been very active as well, expanding community outreach efforts, facilitating more mediations between citizens and police officers, working closely with Internal Affairs to ensure that allegations of misconduct are thoroughly investigated, and analyzing DPD and DSD policies and practices to ensure that they are consistent with national standards and the United States Constitution.

Together, we have achieved a lot, but there is still important work to be done. Citizen complaints against DSD deputies have increased (see Chapter 4) as have complaints against DPD officers, including allegations of inappropriate force (see Chapter 3). The DPD's Body Worn Camera pilot project—which occurred from June through December 2014 in police District 6—was an admirable step, yet the OIM's data-driven analysis of the pilot project (see Chapter 2) revealed a number of areas that can be improved. In particular, the police uses of force within District 6 during the pilot project were frequently not recorded by body worn cameras. In Chapter 2 we make nine actionable recommendations to help the DPD modify its policies and practices as it prepares to deploy body worn cameras department-wide in 2015.

The OIM looks forward to continuing to work with the Mayor, the Executive Director of Safety, the DPD, the DSD, the Citizen Oversight Board, and the community during this critical time for reform.

Sincerely,

A handwritten signature in blue ink, appearing to read "N. Mitchell", with a stylized flourish at the end.

Nicholas E. Mitchell  
Independent Monitor  
Denver, Colorado





# 1

## Overview

The OIM is charged with monitoring the disciplinary systems in the Denver Police and Denver Sheriff Departments (“DPD” and “DSD, ” respectively), making policy recommendations to those departments, and conducting outreach to communities throughout Denver. By ordinance, the OIM is to report to the public by March 15th of every year on the work of the OIM during the preceding year, as well as information about complaints, investigations, and discipline of sworn police and sheriff personnel during the prior year.

This report is presented in five chapters. Chapter 1 provides an overview of certain key information related to OIM operations in 2014. Chapter 2 discusses our assessment of the Denver Police Department’s Body Worn Camera (“BWC”) pilot project, which was conducted in Police District 6 between June and December 2014. Chapters 3 and 4 discuss OIM monitoring of the DPD and the DSD, respectively, and examine statistical patterns related to complaint and disciplinary trends in each. Finally, Chapter 5 contains information about the officer-involved shootings and in-custody deaths involving DPD officers and DSD deputies that occurred in 2014.

The OIM has a number of key focus areas:

1. Conducting data-driven systems analyses of potential policy issues in the DPD and DSD;
2. Promoting engagement through outreach to the community and officers;

3. Working to ensure that DPD and DSD IAB investigations are thorough and complete and conducted without bias;
4. Working to ensure fair and consistent disciplinary outcomes;
5. Monitoring officer-involved shootings and in-custody deaths; and
6. Cultivating DPD officer/community member dialogue through the use of mediation.

In 2014, we had meaningful achievements in each of these areas.

## **Data-Driven Systems Analysis of Potential Policy Issues**

### **Body Worn Cameras in the DPD**

Policy review and analysis are important components of effective oversight of law enforcement, and are key elements of the OIM's work. In this report, we discuss our preliminary analysis of the DPD's District 6 BWC pilot project. At the outset, we commend the DPD for initiating this project, which has already begun to have a positive impact on IAB investigations and case handling. We believe that by taking the initiative on deploying BWCs, the DPD will enhance its continuing efforts to improve relationships between police and the community in Denver.

As discussed in Chapter 2, there are nevertheless opportunities for improvement in the DPD's use of BWCs. For example, a primary purpose of BWCs is to record police uses of force in interactions with the public. Yet, of the 80 uses of force that occurred in District 6 or involved officers from District 6 working outside their District during the pilot project, only 21 (26%) were recorded by BWCs, while the remainder went unrecorded. Many of these incidents included sergeants or officers working off-duty, who did not use BWCs during the pilot project. Yet, many others involved on-duty patrol officers whose BWCs did not record uses of force for a variety of reasons. Using information from the pilot, the OIM identified a number of concerns about the DPD's policies and practices regarding BWCs, and in Chapter 2, we offer nine actionable recommendations to address them. We look forward to continuing to collaborate with the DPD as BWCs are deployed department-wide in 2015.

## **Review of DPD Policy and Practice on Shooting at Moving Vehicles**

As discussed in detail in Chapter 5, the OIM closely monitors all officer-involved shootings and in-custody deaths involving DPD officers and DSD deputies. This includes assessing trends and patterns to determine whether there are areas of training or policy regarding officer-involved shootings, or the investigation of officer-involved shootings, that require particular attention. Since July 2014, there have been four officer-involved shootings involving DPD officers firing into moving vehicles. During the fall of 2014, the OIM became concerned about this tactic and, in January 2015, formally launched an in-depth evaluation of the current state of the DPD's policies, practices, and training on that subject in comparison with national standards and best practices from other police departments in the United States. The evaluation is ongoing and the OIM will discuss the results in a future report.

## **Evaluation of the Potential Causes of Recent Misconduct in the DSD**

In September 2014, in response to requests from members of Denver's City Council, the OIM provided an in-depth evaluation of several potential causes of recent misconduct in the DSD. By assessing the DSD's current policies and practices in comparison with other detention and law enforcement agencies in the U.S., as well as national standards, the OIM identified eight significant systemic issues that the OIM believed required immediate attention in the reform of the DSD. These included: 1) supervisory gaps at the Downtown Detention Center ("DDC"); 2) deficiencies in DSD use of force reports and the DSD's use of force database; 3) inadequate retention of video documenting uses of force; 4) problems with the deputy rounds tracker system; 5) weaknesses in the DSD's early intervention system; 6) deputy peace officer authority; 7) the role of mental illness in Denver's jails; and 8) DSD IAB and the DSD disciplinary matrix (See Appendix A). We look forward to continuing to collaborate with internal and external stakeholders in an effort to ensure that these issues are addressed during the ongoing reform of the DSD.

## **Community and Officer Engagement**

The OIM had many notable achievements in outreach to communities and to officers in 2014. We held or attended 107 presentations or events in the community, including 72 meetings with neighborhood associations, advocacy groups, and representatives of community organizations. We also held or attended 35 events that included outreach to members of law enforcement, including presentations at roll calls, ride alongs, and meetings with police and sheriff unions and fraternal organizations. In addition, the OIM was deeply involved in several task forces charged with identifying issues within the DSD and planning an agenda for reform. Throughout this process, we participated in conversations across the city that involved substantial numbers of community members and deputies.

### **Grant Awarded to the OIM to Initiate Youth/Officer Outreach Program**

The complaints and commendations submitted to the OIM provide a unique window into potential trends in officer/citizen contacts in Denver. In 2014, the OIM observed that a number of young Denver residents and their family members raised concerns over relatively minor contacts with law enforcement that escalated into arrests. Communication challenges often appeared to lie at the heart of many of these incidents. To address this, in March 2014, the OIM sought, and received (in October 2014) a \$60,000 grant from the Colorado Justice Assistance Grants program to fund a targeted youth outreach campaign. This campaign will bring together officers and youth, particularly at-risk youth in Denver, and train young people and police officers to more successfully navigate their interactions and to increase mutual respect and understanding. We are partnering with the DPD, local public schools and universities, and a number of community organizations on the development and delivery of this program in 2015.

## The OIM Launched new Bilingual Complaint/Commendation Brochure

A key OIM focus is the accessibility of the complaint and commendation processes to the public. In 2014, the OIM developed and launched a new complaint/commendation brochure, in English and Spanish, which will be distributed throughout Denver communities in 2015.



*Independent Civilian Oversight  
of Denver's Safety Agencies*

*Control Civil Independiente  
de las Autoridades de Denver*



Complaint and Commendation Form for  
Denver Police and Sheriff Departments

Formulario de denuncia y distinción de la comisaría  
de policía y del departamento del sheriff de Denver

**New OIM Complaint/Commendation  
Brochure**

## Internal Affairs/Disciplinary Oversight

A core OIM function is reviewing IAB investigations in an attempt to ensure that they are thorough, complete, and fair to both community members and officers. In 2014, the OIM reviewed 614 IAB investigations in the DPD and approximately 180 IAB investigations in the DSD. This included examining a voluminous quantity of evidence, including recorded interviews, video footage, police reports, and medical records. When we identified a need for further investigation of particular cases, we returned them to IAB with recommendations for additional work. We also reviewed 139 cases as they went through the discipline process, making recommendations on the appropriate disciplinary outcome, if any, under the departmental disciplinary matrices. In 2014, four DPD officers were terminated, five resigned or retired prior to the imposition of discipline, and 22 were suspended. In the DSD, eight deputies were terminated, four resigned or retired prior to the imposition of discipline, and 21 were suspended.

In 2014, DPD officers received 470 commendations and DSD deputies received 216 commendations that reflected notable examples of bravery or commendable performance. We discuss a number of individual commendations of DPD officers and DSD deputies in Chapters 3 and 4, respectively.

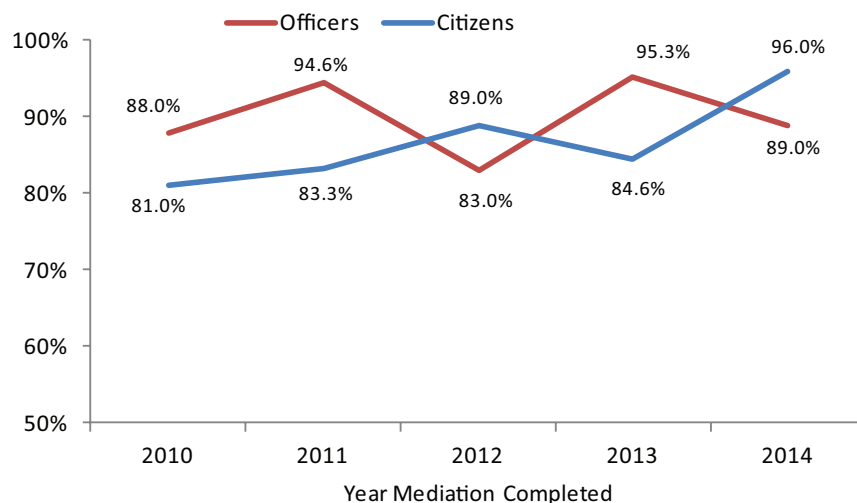
## Officer-Involved Shooting and In-Custody Death Investigations

Pursuant to Denver Ordinance, the OIM responds to every officer-involved shooting and monitors each shooting investigation. In 2014, there were six officer-involved shootings in Denver involving ten DPD officers, and no shootings involving DSD deputies. There was one death of a citizen in the custody of the DPD, and one death of a citizen in the custody of the DSD. In Chapter 5, we provide information about each of the shootings and deaths in-custody and their current status in the administrative review process.

## Mediation

Mediation continued to be an important focus area for the OIM in 2014. Since 2006, the OIM has facilitated 418 successful mediations between community members and DPD officers. In 2014, 53 complaints were successfully mediated, a significant rise from 2013. Of those completed mediations, 96% of the community member participants and 89% of the officer participants reported feeling satisfied with the mediation process.

*Figure 1.1: Community Member and DPD Officer Satisfaction with Mediation Process*



# 2

## Body Worn Cameras in the DPD

### Introduction

Recent events in the United States have brought discussions of police accountability to the forefront of national conversation. In prominent cases in Ferguson, Missouri and New York City in 2014, grand juries did not indict police officers alleged to have used inappropriate deadly force against unarmed black men. Communities responded in various ways, with some engaging in sustained mass protest and civil disobedience. Many Americans became embroiled in discussion and debate—in the workplace, at home, and in the press—about these cases, the protests, and the efficacy of the systems that are intended to ensure police accountability in the United States.

Some Denver citizens have been active participants in their own demonstrations and debates about these subjects. In December 2014, there were protests throughout Denver in an effort to bring attention to perceived gaps and racial disparities in the criminal justice system. Denver demonstrators joined with others in the United States in calling for a deep examination of the police accountability systems in America.

Many commentators and policymakers have responded to this unfolding national dialogue by proposing the uniform adoption of body worn cameras (“BWCs”) by police departments nationwide. Some have suggested that BWCs, small digital cameras that can record an officer’s interactions with the public, will improve relationships between police departments and the communities they serve. And there is reason for some optimism. Several small-scale studies have been conducted that reflect certain promising results, suggesting, for example, that BWCs may contribute to reductions in officers’ uses of force as well as citizen complaints against the police.

These studies, and the innumerable times that they were cited in the popular media in 2014, provided significant momentum to the development of a national BWC initiative. In December 2014, President Barack Obama announced a \$75 million program that will fund the purchase of BWCs in police departments throughout the United States, with the Department of Justice prioritizing funding for researchers to study their effectiveness. Many police chiefs around the United States scrambled to announce BWC programs in their own police departments after the President's announcement.

The City of Denver was significantly ahead of this trend. In June 2014, the DPD launched a pilot project in DPD District 6 to outfit patrol officers with BWCs in order to test their use on a small scale. Mayor Michael B. Hancock and Police Chief Robert White have also indicated that they intend to significantly expand the use of BWCs in 2015 by deploying them to all officers on patrol. In addition, the DPD allowed researchers to collect data during the pilot project for an evaluation that will contribute to the body of evidence on the effectiveness of BWCs. The OIM supports these efforts, and commends the City for making them before the nationwide trend.

The DPD's BWC pilot project ended in December, and this chapter assesses approximately six months of data related to BWC utilization during the pilot. Our initial impressions are largely positive; BWCs have already begun to play a productive role in the resolution of citizen complaints and the handling of IAB investigations. In 2014, there were a number of cases in which BWC footage helped to exonerate officers accused of wrongdoing, or allowed Internal Affairs to decline to conduct full investigations of allegations that were shown to be untrue or inaccurate. For example:

- On September 26, 2014, officers contacted a man who was bleeding from his head on the 16th Street mall. He provided them with a fake name, and was then placed under arrest. He did not produce ID when asked for it, but an officer observed that he had earlier retrieved a leather bag from his groin area in which he said he kept his ID. The officer placed the suspect in the back seat of a police car, and conducted a pat search of his groin area to attempt to locate the bag. The suspect alleged that he was sexually assaulted by the officer, specifically that he was inappropriately touched on his genitals and anus, and that the officer committed a sexual act towards him. Several officers were wearing BWCs, and video taken by the officer who conducted the pat search showed that the search was appropriate and not of a sexual nature. The allegations were investigated and due, in part, to the BWC footage, they were determined to be unfounded.



- On October 17, 2014, officers responded to a call after a cab driver allegedly shoved the manager of a downtown hotel. The hotel manager had previously told the cab driver not to come onto the premises, and the cab driver left, returned to the hotel, and refused to leave. At the hotel's request, the responding officers communicated the trespass orders to the cab driver, who later filed a complaint alleging that officers were abusive and intimidating during the encounter. Both officers recorded the incident on their BWCs, and the footage showed the officers explaining to the driver that he was not welcome on the property, warning him that if he returned he would be committing a crime, and answering all of his questions. Due, in part, to the BWC footage, Internal Affairs properly declined to open a full investigation into the cab driver's allegations.

Conversely, in a number of cases, BWC footage helped play a role in demonstrating that misconduct did occur, resulting in disciplinary action against accused officers. For example:

- On August 19, 2014, an officer was driving on the 16th Street mall when a citizen told him to slow down while allegedly shouting obscenities. The officer stopped and asked the citizen for ID, and the citizen refused to comply. The officer placed the citizen in handcuffs, searched his pockets and wallet, and then he and other officers searched his bag. Due, in part, to the BWC footage, the officer was found to have violated several departmental rules by stopping the citizen and requiring him to show ID without reasonable suspicion to believe he had committed or was about to commit a crime, and conducting an improper search of the citizen's pockets and wallet. The officer was fined four days of time.
- On October 7, 2014, a citizen was stopped after allegedly buying drugs. Two officers approached the citizen, checked his ID, and then requested permission to search his bag. When the citizen asked if the officers had probable cause, he was told "no," and the citizen then objected to the search. The citizen filed a complaint alleging that he was profiled and treated discourteously, and that the officers did not provide him with their names and badge numbers when requested. The encounter was captured by the officers on their BWCs, and the footage established that both officers violated DPD policy by not using good judgment and discretion in the interaction, being discourteous towards the citizen, and not providing the citizen with badge numbers, as required. Both officers were counseled for their demeanors, and reprimanded for their failure to provide badge numbers.

Notwithstanding these early confirmations of the usefulness of BWCs, there are opportunities for significant improvement in their deployment and use in Denver. For example, a primary purpose for BWCs is to record police uses of force in dealings with the public. Video recordings are often the most neutral and objective evidence of an interaction, and may be critical to accurate determinations of whether uses of force were lawful and complied with policy. In addition, as recent national events demonstrate, when there is factual ambiguity about what actually happened during use of force incidents, confusion and distrust between police departments and community may result.

During the pilot project, there were 80 uses of force that occurred in District 6 or involved officers from District 6 who were operating outside the geographical boundaries of their District. Yet, in only 21 of those incidents were the uses of force recorded by BWCs (as documented in the supervisor cover reports prepared by supervisors who responded to those uses of force).<sup>1</sup> That is, of the 80 documented uses of force that occurred in District 6 or involved District 6 officers during the pilot project, only 26% were actually recorded by BWCs, while the remainder were not recorded by BWCs.

We identified several causes of this issue. First, BWCs were not assigned to supervisors or officers working off-duty during the pilot project, leaving 35 of the 80 uses of force unrecorded. Second, 45 of the incidents involved patrol officers to whom BWCs were assigned, and who were on-duty at the time they were involved in uses of force. Yet, just less than half (47%) of those use of force incidents were actually captured by BWCs. The remainder were not recorded either because the BWCs weren't activated, or they weren't used in a way that produced usable and complete footage. In this chapter, we offer nine recommendations to assist the DPD in refining its policies and practices regarding BWCs. We note that the DPD is currently engaged in the process of developing its final BWC policy, and we are optimistic that the recommendations offered in this report will play a role in shaping that document. We look forward to continuing to collaborate with the DPD as it finalizes the BWC Policy and begins using BWCs on a larger scale in 2015.<sup>2</sup>

## Denver's Body Worn Camera Pilot Project

Denver initiated its BWC pilot project during the week of June 23, 2014, when BWCs were distributed to all patrol officers assigned to Police District 6, which encompasses most of Downtown Denver. The pilot project continued until December 20, 2014, and the DPD is now engaged in a procurement process to select a BWC vendor for a wider rollout of BWCs in 2015.<sup>3&4</sup>

102 DPD officers were equipped with Axon Flex™ point-of-view on-officer cameras, manufactured and provided by TASER International, Inc. during the pilot project.<sup>5</sup> BWCs were not issued to supervisors (ranked Sergeant or higher), officers working off-duty, or officers working undercover in plain clothes. The Axon Flex features a wide-angle lens, records high quality audio and video in a variety of light conditions, and is weatherized and rugged. While the BWC features a variety of mounting options, officers were authorized to mount the equipment only on their lapels or certain sunglasses.<sup>6&7</sup>



TASER Axon Flex Camera



Activation/Event Button  
on BWC Controller

The BWCs used during the pilot project required “activation” to initiate audio and video recording. They did not continuously record, but instead needed to be turned on by pressing a large, prominent activation button on the BWC controller. Upon activation, a BWC recorded full audio and video until the officer deactivated the BWC and ended the recording.

The DPD's Body Worn Camera Testing and Evaluation Policy (“BWC Policy”) governed the use of BWCs during the pilot project (see Appendix B). According to the BWC Policy, all officers were required to activate their BWCs prior to any officer-initiated field contacts involving potential violations of the law, including but not limited to pedestrian stops, traffic stops, and vehicle contacts. Similarly, officers were required to activate their BWCs for a broad range of calls for service, including all calls involving arrests or citations, and all calls that became “adversarial.” The BWC Policy recognized that there would be situations, especially non-dispatched events, where it would not be possible to immediately activate a BWC out of concerns for safety.<sup>8</sup> A BWC was supposed to stay on until the event being recorded “stabilized” or concluded, or a victim or supervisor advised the officer to deactivate the BWC.

The BWC Policy dictated that BWCs were not to be activated in any place in which there was a reasonable expectation of privacy, such as a restroom or a hospital emergency room, unless there was a reasonable law enforcement purpose, in which case officers were instructed to use caution to record only those people directly involved in the investigation. When preparing reports, officers could view footage from their own BWCs on a separate video player, not directly from the BWC. They were not authorized to show BWC video to citizens, and the technology did not allow officers to delete footage. Supervisors were not permitted to review officers' BWC footage other than for an investigation (such as a use of force investigation), or if an officer was on a performance improvement plan, or for other reasons (to be approved by the officer's commander or above).<sup>9</sup> At the end of each shift, officers placed their the BWCs into an Evidence Transfer Manager, a docking station that charged the BWCs and uploaded footage to Evidence.com, an online, cloud-based digital media repository.<sup>10</sup>

## **OIM Review of District 6 Uses of Force**

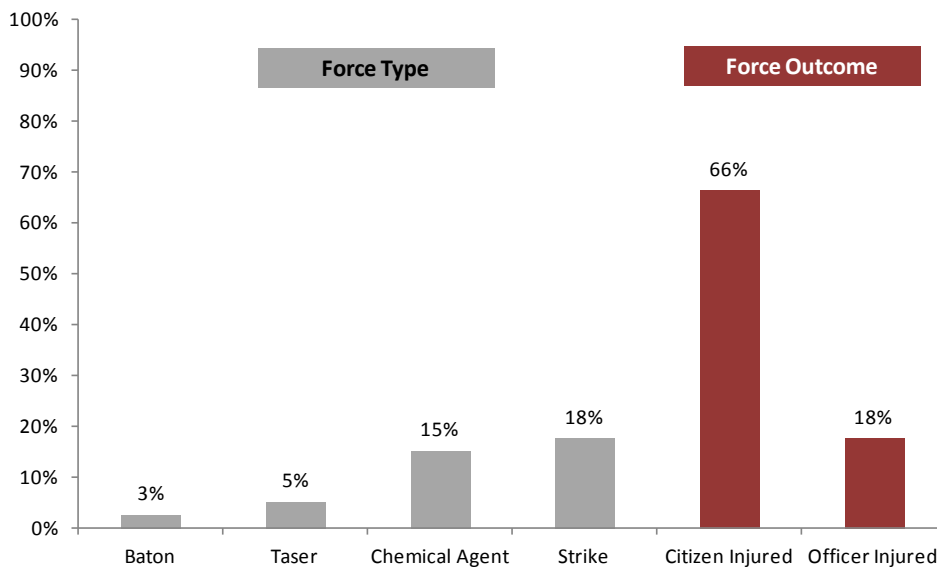
To evaluate whether BWCs were activated for use of force incidents, OIM staff reviewed every documented use of force within the geographical boundaries of District 6, or that involved one or more officers from District 6 that occurred during the pilot project (between July 1 and December 20, 2014).<sup>11</sup> OIM staff systematically coded details of each of a total of 80 incidents, and supplemented this information with quantitative data on uses of force, citizen complaints, and involved officers. The OIM relied upon two primary data sources in this chapter:

1. *Use of Force Supervisor Cover Reports:* At the request of Denver's Citizen Oversight Board ("COB") and the OIM, the DPD produced hard copies of the supervisor cover reports for all 80 use of force incidents in District 6 or by District 6 officers during the pilot project.
2. *Internal Affairs Data:* OIM staff analyzed quantitative data on all use of force incidents department-wide (1,405) and all complaints against DPD officers (1,308) between January 1, 2013 and December 31, 2014.<sup>12</sup>

## Characteristics of Use of Force Incidents During the Pilot Project

In the 80 incidents, multiple combinations of force were often used by officers and noted in the use of force reports. For example, in making an arrest, an officer might have grabbed or held a suspect and then used force to guide the person to the ground. Or an officer might have used hands or fists to strike a suspect, then deployed their Taser if the situation escalated and/or the strikes did not have their intended effect. Figure 2.1 shows the frequency of select types of force among the 80 incidents, as well as how frequently citizens and officers were injured during the incidents. Of the 80 incidents, 14 (18%) involved strikes, typically punching, 12 (15%) involved the use of a chemical agent, 4 (5%) included Taser deployments, and 2 (3%) involved the use of police batons. 66% of the incidents resulted in citizen injury, and 18% resulted in officer injury.

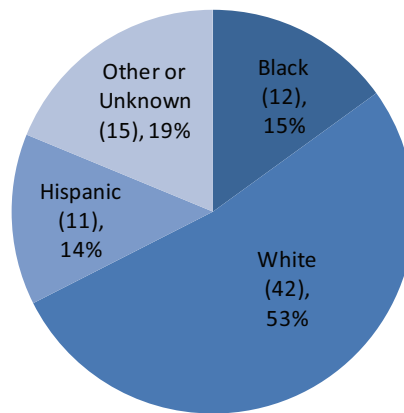
*Figure 2.1: Select Types of Force Used and Force Outcomes*



*Source: DPD Early Identification and Intervention (EIIIS) Database*

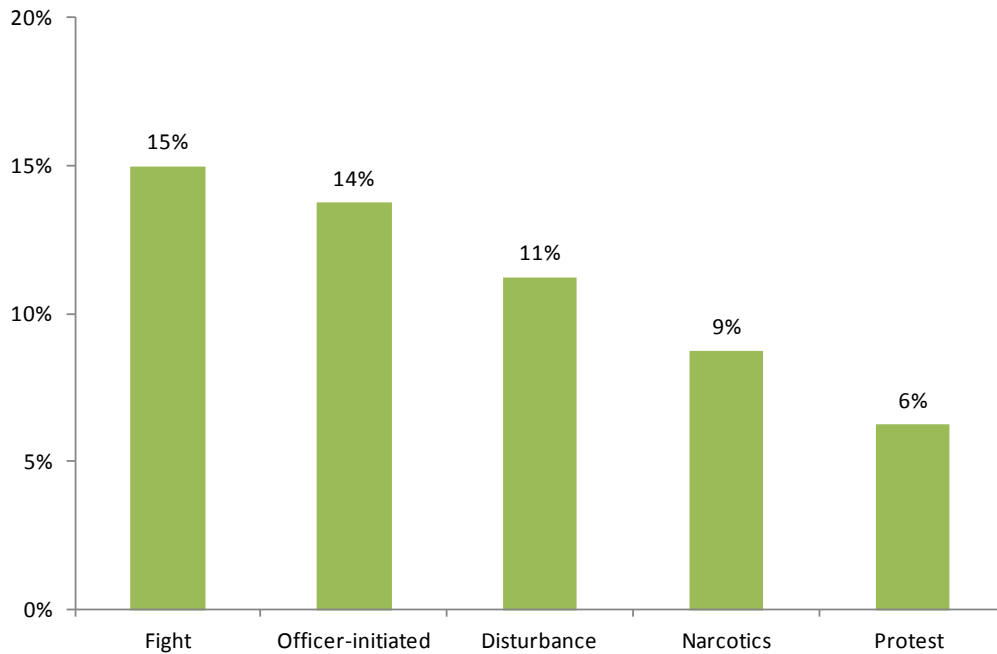
In the majority of incidents during the pilot period, the subject citizen's recorded race/ethnicity was white (53%), while 29% were black and/or Hispanic (see figure 2.2). In eight of the 80 incidents (10%), the citizen was assessed by the officer as being mentally ill. Among all officers involved in the 80 incidents, the average time employed on the police force was 11 years.

*Figure 2.2: Recorded Race/Ethnicity of Citizens Involved*



*Source: DPD EIIS Database*

Figure 2.3 shows the five most common call types among the use of force incidents that occurred during the pilot project. Twelve of the 80 incidents (15%) involved calls to intervene with citizens fighting, and 11 of the 80 incidents (14%) were recorded as officer-initiated, meaning the initial officer response was to a non-dispatched event.

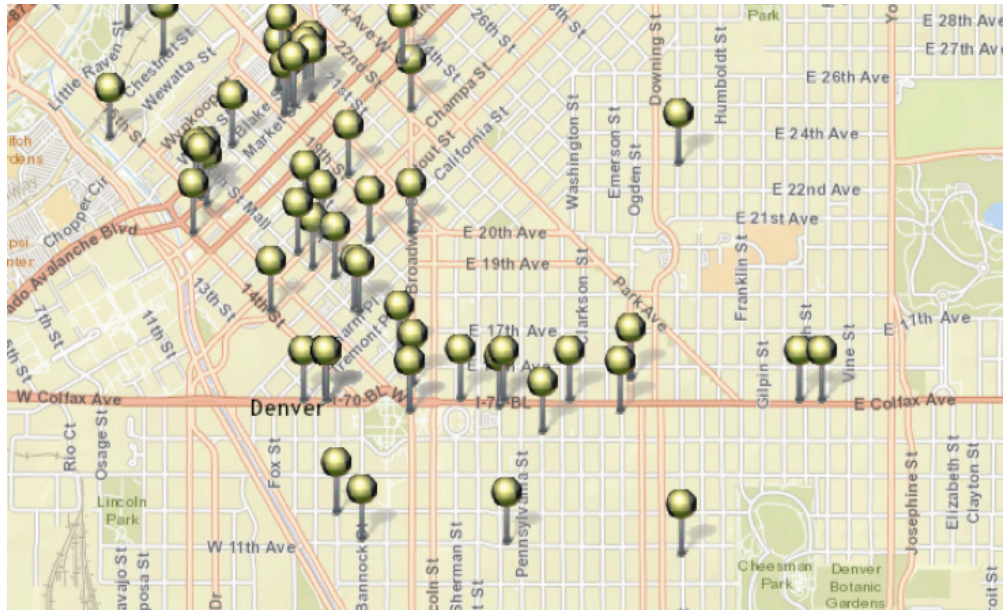
*Figure 2.3: Top 5 Call Types*

*Source: DPD EHS Database*

The use of force incidents that occurred during the pilot project were scattered throughout public spaces and private residences within District 6, with some clustering along the 16th Street Mall, and a separate cluster along Market Street in close proximity to a stretch of bars and nightclubs on the eastern border of the Lodo neighborhood (specifically, Market St. between 15th and 20th streets). Eleven incidents were clustered along central Colfax Avenue, in the area between Tremont Place (to the west) and Clarkson Street (to the east). Thirty-five of the 80 incidents occurred between 12:00 a.m. Saturday and 11:59 p.m. on Sunday; with 15 in that period occurring between 12:00 a.m. and 4:00 a.m.



*Figure 2.4: Location of Reported Use of Force Incidents During the Pilot Project*



All of the 80 District 6 uses of force during the pilot project were assessed by the supervisors who conducted use of force investigations as being within policy and not requiring any further investigation.

## DPD Use of Force Reporting Requirement and Use of Force Investigations

Denver police officers are required to immediately report any incident involving a use of force to a supervisor, who responds to the incident to conduct a use of force investigation. The investigating supervisor contacts the involved officer(s), interviews witnesses and subjects, collects video footage and other evidence, and takes photographs, when appropriate. The supervisor then prepares a written report summarizing the evidence that s/he obtained, and makes recommendations about whether further investigation is necessary. Per DPD policy, that report, a "Supervisor Cover Report," should include, at a minimum:

- The names and statements of all witnesses;
- A narrative summary of any significant facts gathered during the use of force investigation;
- The supervisor's conclusion as to whether the facts reported by the officer are accurate;
- Discussion of any efforts to obtain video or photographic evidence; and
- The supervisor's determination of whether the use of force, tactics employed, and reporting were in policy, and if not, the specific policies and procedures that were violated.

Use of force investigations are generally conducted by patrol supervisors, not by IAB or the OIM, and are then reviewed by IAB at the conclusion of the supervisor's use of force investigation.<sup>13</sup>



## Findings and Recommendations

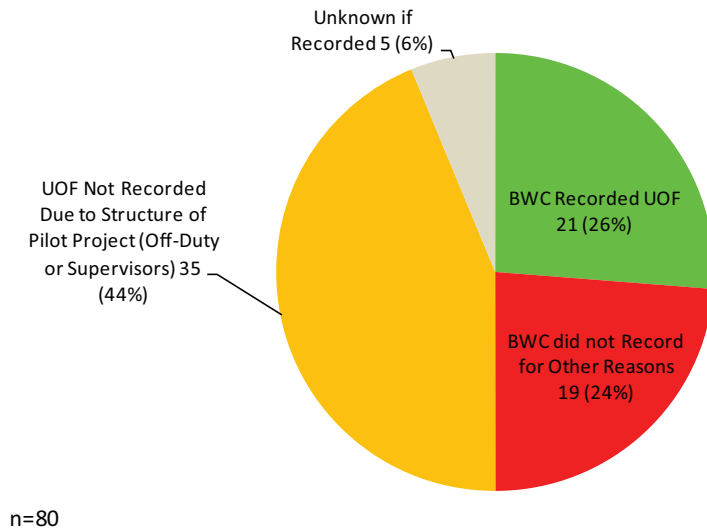
### BWCs did not Record a Majority of the Uses of Force that Occurred During the Pilot Project

BWCs were provided to all patrol officers working in District 6. Per DPD policy, officers were expected to activate their BWCs under a broad range of circumstances, including any situation that became “adversarial” or in any situation in which the officer believed that the use of the BWC would “provide valuable documentation.” This included but was not limited to all pedestrian stops, traffic stops, vehicle contacts, citations, or arrests. Officers were also required to activate their BWCs when responding to calls involving weapons or violence.<sup>14</sup> Notwithstanding this broad activation requirement, during the pilot project, unrecorded uses of force were not uncommon. Instead, BWCs were either not activated or not used in a way that resulted in usable footage in many of the use of force incidents involving on-duty District 6 patrol officers during the pilot project.

As a first analytical step, the OIM sought to examine how many of the 80 use of force incidents were recorded, and of those that went unrecorded, how many were attributable to the structure of the pilot project, and how many were attributable to officer behavior or possible issues with the BWC equipment. As seen in figure 2.5 below, 35 of the 80 incidents (44%) were unrecorded due to the structure of the pilot project, during which supervisors and officers working off-duty assignments were not to use BWCs. As discussed in greater depth in recommendation 3 on pages 23-25, the OIM believes that this is a gap that should be addressed by the DPD before BWCs are deployed department-wide.

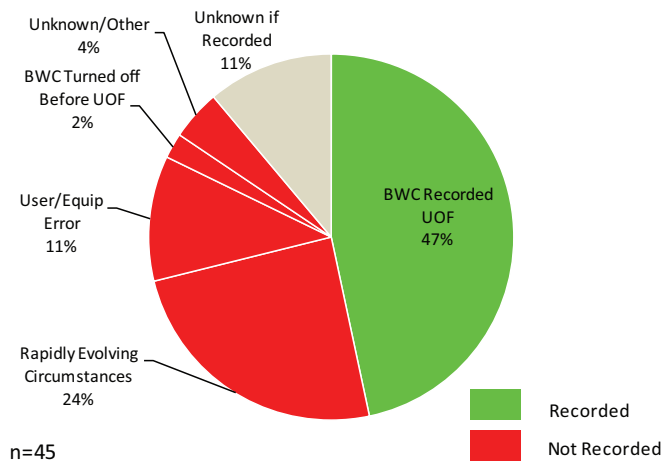
Forty-five of the 80 use of force incidents appeared to meet the DPD’s criteria for BWC activation. That is, 45 use of force incidents involved on-duty patrol officers assigned to District 6 and equipped with BWCs, and we thus expected there to be footage of these incidents. Yet, of those 45 incidents, supervisor cover reports indicated that full, usable footage was available for just 21 uses of force, or 47% of the total.<sup>15</sup>

*Figure 2.5: Percentage of District 6 Uses of Force That Were Unrecorded due to the Structure of the Pilot Project or for Other Reasons*



To better understand officers' practices during the pilot project, the majority of the analysis in this chapter focuses exclusively on the 45 incidents that involved on-duty District 6 patrol officers, unless otherwise noted. Officers and supervisors reported that BWCs did not record uses of force for a variety of reasons, the most common being that the encounters progressed or deteriorated too quickly for them to safely activate the BWC, as was reported in 11 of the 45 incidents. The second most common reason identified for lack of recording was user and/or equipment error, as was reported in 5 of the 45 incidents where the officers did not charge their units, could not download footage, or wore BWCs in a way that obscured the audio and/or video. In five of the 45 incidents, it is unknown if the BWC was used because the supervisor did not make any mention of it in the supervisor cover report; in one incident, the supervisor did mention that the BWC wasn't activated but didn't say why.

*Figure 2.6: Percentage of Uses of Force Involving On-Duty District 6 Patrol Officers that were not Recorded and the Reasons Provided*



The OIM sought to determine whether there were any patterns in officer, citizen or incident characteristics that were common to unrecorded uses of force, or could help explain why certain uses of force went unrecorded. The OIM analyzed citizen characteristics, call types, times of day, force used, and other external factors, such as whether a sergeant was involved in the use of force and whether or not other surveillance footage, such as footage from HALO cameras, existed.

In addition, we examined whether there were any differences in officers' histories, looking at time employed with the DPD, number of complaints of alleged misconduct, and histories of use of force, using both total numbers and averages per year on the force. We were unable to identify a pattern of statistically significant differences that would allow us to explain which types of incidents were more or less likely to be recorded by BWCs, or characteristics of officers who were more or less likely to record.<sup>16</sup>

## Safety Considerations and Exigent/Emergency Circumstances

DPD policy required all officers to activate their BWCs **prior** to any officer-initiated field contacts involving actual or potential violations of the law. Yet, it also recognized that there would be situations, especially non-dispatched events, where it was not possible to activate a BWC right away out of concerns for safety and a need to respond as quickly as possible. If immediate BWC activation was not possible, the BWC policy required supervisors to "closely review documentation of such incidents to ensure exigent circumstances did in fact exist."<sup>17</sup>

In 24% of the incidents (11 of 45) involving on-duty patrol officers during the pilot project, officers reported that they did not have time to activate their BWCs because the encounters escalated or deteriorated rapidly. In a number of these incidents, the officers' description suggests that the situations may, in fact, have been too dangerous or volatile to permit BWC activation. For example:

- On September 14, 2014, at 2:10 a.m., an officer approached a large group that was engaged in a fight. He ordered them to disperse and when they did not comply, he deployed his OC spray, breaking up the fight. The officer did not activate his BWC, stating that an individual was on the ground being kicked by several people and he was unable to activate the BWC safely while running to the fight and retrieving his OC spray from his back pocket.

In a number of incidents, however, officers asserted that the situations evolved too rapidly or were too volatile to permit BWC activation, even though it was the officers who initiated the contacts without first activating their BWCs, as required. For example:

- On August 23, 2014, two District 6 officers contacted a drug user, who was known to carry weapons, on the Cherry Creek bike path after receiving several complaints. The officers had already made contact with the suspect and were conducting a pat search when the suspect began to flee on foot. The suspect allegedly attempted to hide evidence, and the officers pulled him into the creek, where a struggle ensued. Officers ordered the suspect to show his hands, and he allegedly refused, hiding his right hand in the water. Fearing that the suspect might have a weapon, an officer struck the suspect in the face with a closed fist to gain compliance, and the suspect was taken into custody. The officers indicated that they didn't activate their BWCs due to the "rapid deterioration of the contact," and the investigating supervisor concluded that "pausing and activating [the camera] may jeopardize the safety of the officers."
- On October 15, 2014, District 6 officers were conducting a covert operation when they contacted an individual who they believed was wanted in an "attempt to locate" order. A sergeant arrived to provide cover, and while checking the suspect for warrants, the sergeant grew concerned when the suspect shoved her hands in her pockets and began acting nervous. He patted her down, felt a long slender object, and searched her pockets for a weapon, instead finding a crack pipe. When the officers attempted to arrest the woman, she "turtled up," pulling her arms away to resist handcuffing and dropping to her knees. The District 6 officer who initiated the contact was wearing a BWC, but stated that he did not activate it due to "rapid evolving circumstances and the need to provide immediate cover to other officers."

Officer safety is critical, and activating a BWC should never delay an officer from taking immediate action to protect himself or others. Yet, due to the number of incidents in which officers did not activate their BWCs **prior** to initiating contact, then asserted that the situations developed too quickly to permit BWC activation, we believe that this issue requires additional attention by the DPD. In particular, we believe that the DPD should provide additional training on the importance of activating BWCs **prior** to initiating citizen contacts, rather than after the contacts are underway, when they can quickly escalate or deteriorate. When officers state that emergency circumstances prevented BWC activation, supervisors should document their assessments as to whether or not dangerous circumstances did, in fact, exist, as well as counsel officers when they disagree with their determinations that a BWC could not have been activated.

***Recommendation 1: The OIM recommends that the DPD provide additional training on the importance of activating BWCs prior to initiating citizen contacts, rather than after-the-fact, when situations may escalate or deteriorate too quickly to permit BWC activation.***

## **User Error and Apparent Equipment Malfunction Prevented the Recording of Certain Uses of Force During the Pilot Project**

In five incidents during the pilot project, supervisors indicated that the officers did not capture footage of the uses of force due to technical issues with the BWCs. This included incidents where officers were seemingly at fault (e.g., for not charging a BWC battery pack) as well as incidents that may or may not have been related to issues with the equipment. For example:

- On July 31, 2014, District 6 officers responded to a call of a burglary in progress. While attempting to control the suspect and take her into custody, the suspect attempted to elbow, bite and head-butt an officer. The suspect was eventually taken to the ground and restrained. Although the officer had activated his BWC and attempted to record the entire incident, the front of his BWC got stuck under his collar during the altercation, so the audio was difficult to understand and there was no usable video footage of the incident.
- On September 8, 2014, District 6 officers responded to a call of a burglary in progress and were told that the suspect may have gone down to the basement of the building. Upon entering the basement, they contacted a man and placed

him in handcuffs while they finished clearing the basement, despite the man's insistence that the basement was his apartment. Once the basement was cleared, the reporting party confirmed that the handcuffed male did, in fact, live in the basement. The man's handcuffs were removed, and they had caused a small abrasion to his wrist. A corporal stated that he had activated his BWC at the beginning of the encounter and that it beeped (indicating the beginning of a recording) but he later realized it was not recording, possibly due to a low battery. Four other District 6 patrol officers responded to the call; however, there is no indication in the supervisor cover report as to whether any of those officers activated their BWCs.

- On September 9, 2014, two District 6 officers responded to a private residence on a domestic violence call. Upon locating the suspect, he was placed into handcuffs, and while being taken to the police car, he yanked himself away and attempted to flee. An officer took the suspect to the ground, causing a small cut to his forehead. The officer activated his BWC at the beginning of the encounter, capturing most of the incident, but the BWC was apparently accidentally switched off at some point during the scuffle.
- On November 18, 2014, two District 6 officers were flagged down to assist with two drunken males who were passed out in very cold weather. The officers requested the detox van, and while being escorted to the van, one of the men pulled away and punched an officer in the face. The man continued to struggle, and he was taken to the ground and handcuffed. Both officers related that they had attempted to activate their BWCs, but one officer's BWC did not activate due to a dead battery, and the other officer's BWC failed to connect for an unknown reason.

We believe that the DPD should further evaluate the incidents in which officers noted technical or equipment issues to determine whether they could be resolved with additional training, or whether they are due to problems with the equipment provided during the pilot project. We believe this evaluation should play a role in the procurement process for selecting a BWC vendor and model for the full deployment of BWCs to the DPD. We note that BWCs used during the pilot project were refurbished models, not new equipment, which may have contributed to some of these early challenges.<sup>18</sup> It may also be helpful to gather additional feedback from officers who encountered technical difficulties to better understand the causes.

***Recommendation 2: The OIM recommends that the DPD evaluate possible equipment issues that arose during the pilot project before selecting a BWC vendor and model for department-wide deployment, and provide additional training to officers in an attempt to avoid future technical or user error.***

## The Pilot Project did not Require Officers Working Off-Duty or Supervisors to use BWCs, Leaving Many Uses of Force Unrecorded

### *a. Officers Working Off-Duty*

DPD officers routinely work secondary employment (“off-duty”) police jobs, providing security services for private or public entities, including bars, nightclubs, and sports stadiums. Of the 588 off-duty employment contracts approved by the DPD in 2012, 170 (29%) included establishments that sold alcohol or planned to provide alcohol.<sup>19</sup> Off-duty work at bars and other locations where alcohol is served can be particularly volatile.<sup>20</sup>

While working off-duty in their official capacity, DPD officers retain their police authority to enforce the law, and are required to comply with DPD policy and procedure, including policy on the use of physical force.<sup>21</sup> The City of Denver is also potentially liable for any harm that results from police actions during off-duty assignments.<sup>22</sup> Even if the City is not ultimately found liable in such lawsuits, the City may still have to pay the costs of defending them. Similarly, the City may be liable for injuries incurred by officers working off-duty when they are engaging in “official police action” during those jobs.<sup>23</sup>

During the pilot project, DPD officers working off-duty were instructed not to use their BWCs during those jobs. Not surprisingly, in 22 of the 80 (28%) use of force incidents, BWC footage was not available from certain officers because they were working off-duty.<sup>24</sup> A number of these incidents involved uses of force where BWC recordings could have been very helpful. For example:

- On July 4, 2014, an officer normally assigned to District 5 was working off-duty on the 16th Street mall when he observed a large fight and attempted to intervene. One combatant continued to fight, despite the officer grabbing him by his arm and commanding him to sit down. The suspect resisted by pushing back against the officer, who then struck the suspect’s leg with his baton. The officer was not equipped with a BWC, and none of the responding, on-duty officers activated their BWCs. The investigating supervisor was able to obtain HALO footage of the incident, but concluded that it was dark, grainy, and taken from fairly far away, making it impossible to determine individual actions.



- On July 26, 2014, an officer regularly assigned to District 2 was working off-duty at a bar downtown when he was contacted by security regarding a heavily intoxicated patron who refused to leave. During the encounter, the patron's brother reportedly became aggressive and was pushed onto a set of stairs by the officer. The officer was not wearing a BWC, but video of the event (without audio) was captured by a HALO camera. The citizen who was pushed to the ground subsequently filed a complaint against the officer, alleging that inappropriate force had been used against him. That complaint was investigated and is currently under review.
- On October 18, 2014, off-duty officers were working an event called "The Zombie Crawl" on the 16th Street mall when one officer observed two males fighting. As the officer tried to separate the individuals, a mass of people gathered to watch the fight. When the two men did not stop fighting, the officer deployed his OC spray. Bystanders, including two children, were allegedly affected by the OC spray, and some members of the crowd grew hostile. The officer was off-duty and not wearing a BWC. Although the incident was captured by other surveillance cameras, they were distant, had no audio, and only captured the initial deployment of OC spray, and other officers responding to the scene activated their BWCs but did not capture the use of force. The father filed a complaint alleging that inappropriate force was used towards both him and his children, and due to inconclusive evidence, the force allegation was not sustained.

*b. Sergeants and Other Supervisors*

Sergeants and other supervisors were also involved in a number of uses of force during the pilot project, taking part in 19 of the 80 District 6 use of force incidents. In 13 of those incidents, the sergeants were working alongside patrol officers; in five incidents, the sergeants were working alone and off-duty; and in one, the sergeant was alone and on-duty. Because sergeants and other supervisors were not equipped with BWCs during the pilot project, footage was not available of some of these incidents. For example:

- On September 7, 2014, District 6 officers, including one sergeant, responded to a report of an individual running through an alley and screaming. The individual climbed a fire escape of a condominium building, grabbed a rock and threw it through the window of a unit and then went inside and hid in an upstairs loft. The officers entered the unit, and a sergeant attempted to communicate with the



suspect from a spiral staircase leading to the loft. A few minutes later, the man came towards the sergeant holding a chair, and the sergeant deployed his Taser. Other officers were ultimately able to take the man into custody. Of the four officers other than the sergeant who were identified in the use of force report, one captured footage of the incident on his BWC, one captured only the first 13 minutes (up until the physical confrontation) due to an apparent equipment issue, one stated that his BWC was not functioning due to a faulty cord, and one was a recruit and therefore not issued a BWC. The sergeant who deployed his Taser was also not issued a BWC.

- On October 28, 2014, a District 6 sergeant observed a suspect tagging a traffic signal controller box with a marker and approached him, grabbing the suspect's arm. After a foot chase, the suspect stopped and turned toward the sergeant, taking a fighting stance and balling his fists. The sergeant reportedly deployed "mace" and the suspect began throwing punches at the sergeant. To gain control, the sergeant struck the suspect five to seven times in the head with a closed fist. The sergeant was not equipped with a BWC, and a HALO camera captured only the first part of the chase, and not the physical altercation between the sergeant and the suspect.

The DPD has stated that while it is considering requiring officers working off-duty to utilize BWCs, it is concerned about equipment and storage costs, which may be prohibitive.<sup>25</sup> While considering costs is certainly important, we encourage the DPD to also consider the fiscal benefits that might accrue if supervisors and officers working off-duty are equipped with BWCs. This could include costs associated with litigation and Internal Affairs investigations, both of which may be made more efficient, or avoided altogether, with footage supplied by BWCs.<sup>26</sup> In addition, the OIM believes that officers in specialized units such as SWAT and Gang, which are also sometimes involved in serious uses of force, should also be equipped with BWCs. In fact, of the ten DPD officers who were involved in officer-involved shootings in 2014, 60% were assigned to specialized units, with four in the Gang Unit, and two in Metro/SWAT. (See Chapter 5 for more information.) We believe that this fact alone provides strong incentive for equipping officers working in those units with BWCs. While the DPD has indicated that it plans to deploy BWCs to the Gang and Traffic Units, it does not plan to deploy them to Metro/SWAT. We believe that it should do so.

***Recommendation 3: The OIM recommends that the DPD deploy BWCs to all uniformed officers who interact with the public in a law enforcement capacity, regardless of rank or whether they are working on- or off-duty, and that the DPD also equip officers working in certain specialized units with BWCs, including the Gang, Traffic and Metro/SWAT Units.***

## Permitting Officers to Stop Recording Prior to the Conclusion of Citizen Encounters may Result in Important Parts of Interactions Going Unrecorded

Under the BWC Policy, once a BWC was activated, an officer was required to continue recording until the encounter concluded or appeared to be “stabilized,” which was defined as when the initial response or exchange of communication had transitioned to a “controlled and orderly investigation.”<sup>27</sup> Yet, law enforcement encounters with the public are sometimes volatile, and a situation that appears to be stable can deteriorate rapidly. One incident from the pilot project provides a useful example:

- On November 12, 2014, District 6 officers responded to a home on a report of a suicidal female. Paramedics took the woman into the ambulance without incident, and she then became irate and combative, prompting the paramedics to request assistance. While attempting to control her legs to keep her from injuring herself or kicking paramedics, an officer accidentally struck her in the mouth with his arm, causing a small laceration on her lip. The officer had captured the earlier part of the encounter on his BWC, and then turned it off because the woman appeared to have become compliant. The accidental use of force was thus not captured on the BWC.

***Recommendation 4: The OIM recommends that the DPD consider revising its policy to require officers to keep their BWCs activated until the actual conclusion of citizen encounters that must be recorded, regardless of whether or not officers perceive the situation to have “stabilized.”***

## DPD Officers Were not Required to Inform Citizens That They Were Recording, Which may Have Reduced the Impact of BWCs on Citizen and Officer Behavior

We believe that the DPD's BWC Policy should be amended to require officers to notify citizens that they are being recorded, when possible, for several reasons. First, notable authorities have recommended as much. For example, in its model policy on BWCs, the International Association of Chiefs of Police ("IACP") recommended that "whenever possible, officers should inform individuals that they are being recorded."<sup>28</sup> The IACP further noted that the reasons to provide such notifications are particularly strong when the recordings are being made inside places in which there is a reasonable expectation of privacy, such as private homes.

In addition, the Rialto (California) Police Department is often at the center of discussions about BWCs. This is not surprising; after the introduction of BWCs, the Rialto PD experienced marked declines in both uses of force by officers and citizen complaints against officers. Notably, Rialto saw remarkable reductions in use of force department-wide, although only some officers were assigned to wear BWCs during the study period. Specifically, the Rialto PD reported a 58% decline in uses of force department-wide, and an 88% decline in citizen complaints department-wide, when comparing the study period to the previous year. These declines are particularly significant given that officers were instructed to use BWCs in a nearly equal number of shifts as they were instructed not to use them.<sup>29</sup>

To examine whether the DPD began to see similar reductions in complaints and uses of force during the pilot project, the OIM analyzed trends in the number of complaints and uses of force prior to and after the introduction of BWCs. To control for seasonal patterns in arrest and complaint data (which tend to peak and fall during certain months of the year), the OIM compared the months during which the pilot project occurred in 2014 (July through December) to the same months in 2013.<sup>30</sup> As reflected below, during the pilot project, the DPD did not experience the kind of declines in uses of force or citizen complaints that were seen in Rialto. Specifically, during the pilot project:

- Reported use of force incidents in District 6 increased by 11% (from 87 to 97), while they decreased by 7% in all other districts and units (from 271 to 253);<sup>31</sup>
- The total number of complaints against District 6 officers increased by 8% (from 60 to 65), compared to an increase of 6% in all other districts and units (from 240 to 255); and

- The total number of complaints against District 6 officers that included one or more allegations of inappropriate force increased from 9 to 19 (by 111%), while the total number in all other districts and units increased from 25 to 49 (by 96%).<sup>32&33</sup>

We note that this analysis is descriptive and just a first step towards examining possible changes in complaint and use of force patterns that may be attributable to BWCs. Importantly, this analysis does not test whether the BWCs were responsible for any of these changes; a question that the evaluation study to be conducted by the outside researcher may address in greater depth.

Yet, we believe that a key policy difference between Rialto and Denver during their respective BWC pilot projects may be a factor in their different complaint and use of force trends. In its Body Worn Video Policy, the Rialto PD encouraged officers to advise citizens that they were being recorded “if the advisement may gain compliance, assist in the investigation, and does not interfere with the investigation or officer safety.”<sup>34</sup> While there are many questions about the potential cause(s) of the steep declines in complaints and uses of force in Rialto, some have argued that this notification requirement may have contributed to a “self-awareness effect,” causing police to regulate their own behavior, and encouraging citizens to exhibit cooler demeanors or more law abiding conduct.<sup>35</sup> Researchers have also suggested that notifying citizens that they are being recorded may have positive effects on both officer and citizen behavior.<sup>36</sup>

DPD policy during the pilot project did not require officers to notify citizens that they were being recorded. While this was not necessarily responsible for the lack of reduction in complaints and uses of force in District 6, it may have been a factor, and we believe that the BWC policy should require such notification when practicable in the future. The Executive Director of Safety informed the OIM on March 5, 2015, that Chief White is considering a proposed revision of the policy that would require officers to notify citizens that they are being recorded, whenever possible. We commend Chief White for considering this change, and look forward to seeing the final policy.

***Recommendation 5: The OIM recommends that the DPD revise its current policy to require officers to notify citizens that encounters are being recorded by BWCs, when possible.***

## Supervisors' Use of Force Cover Reports Sometimes Lacked Sufficient Detail to Properly Assess Uses of Force

Supervisors investigating uses of force during the pilot project concluded that 100% of these uses of force were appropriate and within policy. In six of the 80 incidents, debriefs were recommended following the incidents, while six incidents resulted in later Internal Affairs complaints (five initiated by citizens alleging that inappropriate force was used, and one internal complaint related to transporting prisoners). Of those six complaints, one was partially sustained, two were declined, one was handled informally, one was an administrative review with no policy violation, and one is still under review.

Supervisor cover reports (in which supervisors document their use of force investigations and the use/non-use of BWCs) are important since they provide an account of all uses of force to IAB and command staff from the primary investigator. They can also provide useful feedback that will help officers learn from tactical decisions made during use of force incidents. In addition, if citizens ultimately file complaints, supervisor cover reports may also provide helpful information for IAB investigators.

Relying solely on supervisor cover reports, the OIM was unable to determine whether all 80 incidents in District 6 were sufficiently investigated by responding supervisors, a question that goes beyond the scope of this report. However, the OIM does have concerns over the quality and thoroughness of the documentation of BWC usage included in some reports, which was inconsistent and, at times, completely absent. While the majority of supervisors did refer to the presence or absence of BWC footage in their reports, it was sometimes minimal and confusing, failing to delve into the reasons why BWCs were not activated or including conclusory officer assertions about the reasons BWCs were not activated without noting whether or not the supervisor agreed with the assessment or providing reasons why.

Supervisors sometimes used language that made it impossible to know why BWC footage was not available, with one report simply noting that the “camera did not activate,” and typically did not mention whether or not all other officers on scene had activated their BWCs as required by policy, instead focusing only on the primary officer. This is problematic because DPD policy requires all officers to activate their BWCs. In addition, we have observed that officers who are not directly involved in a use of force sometimes have the best vantage point and provide the most useful footage for investigations.

In contrast, some supervisors were very thorough in their reports, including the pertinent details related to BWC activation. We believe that additional training for supervisors and a clearer policy on what is expected in supervisor cover reports could help to ensure that all supervisors are diligent in documenting the reasons for the use or non-use of BWCs.

***Recommendation 6: The OIM Recommends that the DPD require supervisors to provide thorough documentation of the reasons for the use or non-use of BWCs in supervisor cover reports, and provide additional training and ongoing feedback to supervisors on how BWC use or non-use should be documented in those reports.***

## **Officers Have not Been Informed of the Possible Disciplinary Consequences of Non-Compliance With the BWC Policy**

According to the BWC Procedure distributed to officers during the pilot project, officers could be disciplined for non-compliance, but did not state what that discipline could or would be.<sup>37</sup> As the DPD's Disciplinary Handbook makes clear, fairness in discipline is based, in part, on providing notice to officers and the public of the consequences of violating particular rules.<sup>38</sup> The OIM recommends that the DPD clearly articulate to officers and the public the possible disciplinary consequences of failing to adhere to the BWC Policy, including the penalties for unauthorized recording, failing to record when required to do so, unauthorized viewing of video, or attempting to tamper with or alter body worn video or the BWCs themselves.

The Executive Director of Safety informed the OIM on March 5, 2015, that the DPD has begun developing a policy concerning disciplinary penalties for failing to comply with the BWC Policy. We look forward to working with Director O'Malley and Chief White to ensure that violations of the BWC Policy are appropriately categorized under the disciplinary matrix.

***Recommendation 7: The OIM recommends that the DPD provide notice of the possible disciplinary penalties for failing to adhere to the Body Worn Camera Policy in its policies and in the DPD Disciplinary Handbook.***



## BWCs Raise Unprecedented Privacy Issues That Should be Addressed in Greater Depth

BWCs and other surveillance technologies present a host of new challenges to law enforcement agencies as they balance the need to protect public safety with citizens' and officers' right to privacy. For example, when discharging their duties, officers must often enter private homes, businesses, hospitals, doctors' offices, houses of worship, and other places in which members of the public may have an expectation of privacy. The community has confidence that under most circumstances, citizen conduct in these locations will not be recorded and subjected to possible later review by law enforcement authorities. The BWC Policy limited recording in certain private places, but there were gaps in these limitations. For example, while the BWC Policy generally prohibited recording inside patient health care areas, it also specifically allowed officers to record in those areas for "official purposes."<sup>39</sup> Similarly, the BWC Policy generally prohibited recording in restrooms or locker rooms, yet allowed such recording for the "purpose of official law enforcement activity such as a call for service." In these situations, officers were advised to use caution to record only those individuals involved in an investigation.<sup>40</sup>

These provisions are potentially confusing and do not provide clear guidance to officers. There are certainly situations in which officers may be on official calls for service in restrooms, locker rooms or patient care areas, but should not record in order to protect the privacy of bystanders, and officers may find it difficult to limit their recordings to only the particular people involved in investigations. We believe that the DPD should provide guidance that is more specific on when recording in private places such as homes, restrooms, locker rooms, houses of worship, certain businesses, and patient care areas is authorized, and when it is unauthorized.

The BWC Policy also advised officers conducting strip searches to use their BWCs to record a 360-degree view of the area in which the search was to be conducted, and then point the BWC away to allow the officer to capture audio, but not video, of the strip search.<sup>41</sup> During the OIM's regular work monitoring cases, we have observed that it can sometimes be difficult for officers to aim their BWCs with precision, and to control the position of the BWCs throughout interactions. Thus, we have concerns about officers using BWCs during strip searches, and encourage the DPD to consider whether there might be a way of capturing audio of strip searches that does not put citizens' privacy at risk.

Similarly, if officers are required to record most law enforcement interactions with the public in the future deployment of BWCs department-wide, stored BWC footage may become an archive of interactions with citizens who are neither

suspects in nor have been accused of crimes. While not contemplated at present, this vast footage archive could raise risks of becoming a tool for the investigation of community members unrelated to the evaluation of complaints, uses of force, or critical incidents. In the interest of privacy, the DPD's BWC Policy should establish a video retention protocol that allows for the long-term storage of only those videos needed for criminal and/or administrative investigations, while requiring that all other videos of citizen contacts be deleted within a short time period. Apparent conflicts in two policy documents that were in effect during the pilot project make unclear what the retention period for BWC footage that has no evidentiary purpose will be going forward.<sup>42</sup> The Executive Director of Safety informed the OIM on March 5, 2015, that the DPD has committed to storing footage with no evidentiary value for 30 days, and we look forward to seeing the final retention policy.

***Recommendation 8: To address the unprecedented privacy issues presented by BWCs, the OIM recommends that the DPD provide clear and specific guidance on when recording in private places such as homes, restrooms, locker rooms, houses of worship, certain businesses, and patient care areas is authorized, and when it is unauthorized. The OIM also recommends that the DPD consider the use of alternative methods for documenting strip searches, including possibly audio-only devices. The OIM also recommends that the DPD provide clear retention guidelines for BWC footage that do not allow for the storage of footage with no evidentiary value for investigations for an unreasonable period of time.***



## Officers and Community Members can Provide Valuable Input Into the BWC Policy and Should be Given Formal Opportunities to do so

Many police departments have found that soliciting the direct input of officers while implementing a BWC program is a good way to garner officer buy-in and encourage them to see BWCs as a useful tool.<sup>43</sup> By piloting BWCs with District 6 patrol officers, the DPD has created a team of officers who are uniquely qualified to speak about the benefits and challenges of using BWCs. We believe that it is critical that the DPD tap into these in-house experts in order to anticipate and find solutions to challenges that will be faced by officers in other districts as BWCs are deployed department-wide. In addition, some District 6 officers may be particularly well-suited to serve as champions for BWCs by sharing their initial concerns, their experiences using BWCs, challenges they've overcome, and any successes (such as exonerated complaints and better relationships with citizens) that have resulted from their use of BWCs, with officers in other districts.

Similarly, because the introduction of BWCs will impact the community, we strongly encourage the DPD to engage in robust public consultation with the Denver community regarding its BWC Policy. Community members and leaders have often played an important role in developing public policy in Denver, and we suggest that the DPD create opportunities for public feedback that could include soliciting public comment and creating community forums or discussions regarding BWCs, then incorporate this feedback into further revisions of the BWC Policy.<sup>44</sup>

***Recommendation 9: The OIM recommends that the DPD solicit officer and community input on the BWC Policy and use that input in revising the BWC Policy that will be in effect once BWCs are deployed department-wide.***

## **Summary of OIM Recommendations Regarding Body Worn Cameras in the DPD**

- Recommendation 1: The OIM recommends that the DPD provide additional training on the importance of activating BWCs prior to initiating citizen contacts, rather than after-the-fact, when situations may escalate or deteriorate too quickly to permit BWC activation.
- Recommendation 2: The OIM recommends that the DPD evaluate possible equipment issues that arose during the pilot project before selecting a BWC vendor and model for department-wide deployment, and provide additional training to officers in an attempt to avoid future technical or user error.
- Recommendation 3: The OIM recommends that the DPD deploy BWCs to all uniformed officers who interact with the public in a law enforcement capacity, regardless of rank, and whether they're working on- or off-duty, and also equip officers working in certain specialized units with BWCs, including the Gang, Traffic and Metro/SWAT units.
- Recommendation 4: The OIM recommends that the DPD consider revising its policy to require officers to keep their BWCs activated until the actual conclusion of citizen encounters that must be recorded, regardless of whether or not officers perceive the situation to have "stabilized."
- Recommendation 5: The OIM recommends that the DPD revise its current policy to require officers to notify citizens that encounters are being recorded by BWCs, when possible.
- Recommendation 6: The OIM Recommends that the DPD require supervisors to provide thorough documentation of the reasons for use or non-use of BWCs in supervisor cover reports, and provide additional training and ongoing feedback to supervisors on how BWC use or non-use should be documented in those reports.

- Recommendation 7: The OIM recommends that the DPD provide notice of the possible disciplinary penalties for failing to adhere to the Body Worn Camera Policy in its policies and in the DPD Disciplinary Handbook.
  
- Recommendation 8: To address the unprecedented privacy issues presented by the BWCs, the OIM recommends that the DPD provide clear and specific guidance on when recording in private places such as homes, restrooms, locker rooms, houses of worship, certain businesses, and patient care areas is authorized, and when it is unauthorized. The OIM also recommends that the DPD consider the use of alternative methods for documenting strip searches, including possibly audio-only devices. The OIM also recommends that the DPD provide clear retention guidelines for BWC footage that do not allow for the storage of footage with no evidentiary value for investigations for an unreasonable period of time.
  
- Recommendation 9: The OIM recommends that the DPD solicit officer and community input on the BWC Policy and use that input in revising the BWC Policy that will be in effect once BWCs are deployed department-wide.



# 3

## Denver Police Department (DPD) Monitoring

### **Introduction**

Having an accessible complaint process is critical for several reasons. First, complaints provide the DPD with information it can use to hold officers accountable when they fail to live up to Department and community standards of conduct. Second, complaints may provide “customer feedback” that can be used to improve police services through the refinement of policies, procedures, and training. Third, complaints can identify points of friction between officers and the community, which can support the development of outreach and community education initiatives. Finally, an open complaint process tends to foster community confidence in the police, which enables officers to effectively fulfill their important public safety function.

In this chapter, we review statistical and workload patterns relating to the DPD’s 2014 complaints, investigations, findings, and discipline.

## **Highlights**

- ♦ In 2014, 568 community complaints were recorded against DPD officers, compared to 550 complaints in 2013.
- ♦ The number of specifications for inappropriate force recorded against DPD officers increased substantially from 128 in 2013 to 210 in 2014, an increase of 64%.
- ♦ The percentage of complaints with one or more sustained allegations remained stable between 2013 and 2014. In 2014, 50% of internal complaints and 5% of community complaints had one or more sustained allegations.
- ♦ Four DPD officers were terminated in 2014 while five officers resigned or retired while an investigation or discipline was pending.

## **Receiving Complaints**

Complaints against Denver police officers fall into three categories: community complaints, internal complaints, and scheduled discipline complaints.

## **Community Complaints/Commendations**

Community complaints are allegations of misconduct by a sworn member of the DPD that are filed by community members. Community members can file complaints by filling out the OIM's online complaint form, mailing the OIM a completed postage-paid complaint/commendation form, emailing or faxing a complaint to the OIM, or by visiting the OIM's offices. See Appendices C and D which describe how complaints and commendations can be filed, and where OIM brochures are located.

## **Internal Complaints**

Internal complaints are those that are filed by an officer, supervisor, command staff, or Internal Affairs. Internal complaints are more likely to be procedural than community complaints, and often allege a failure to follow DPD procedures. Not all internal complaints are minor, however, as complaints of criminal behavior by officers are sometimes generated internally.

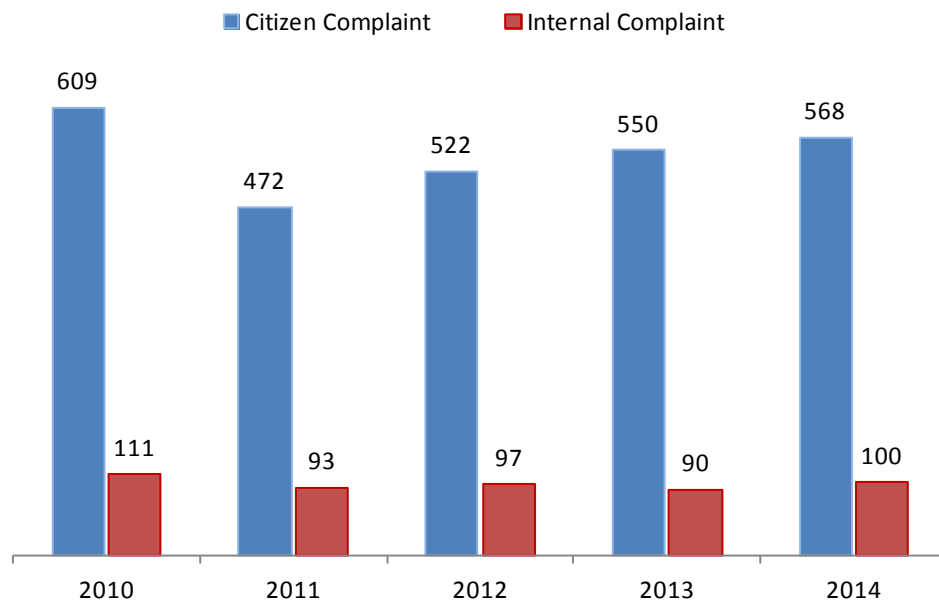
## Scheduled Discipline Complaints

Scheduled discipline complaints are generally minor, such as when a DPD officer gets into a traffic accident that does not cause injury, or misses a court date, shooting qualification, or continuing education class. Discipline for these types of routine offenses is imposed according to a specific, escalating schedule. Historically, the OIM has opted to not monitor or report on these types of cases. As a result, this chapter does not address patterns in scheduled discipline.

## Complaints Filed in 2014

In 2014, 568 community/service complaints and 100 internal complaints were recorded against DPD officers.<sup>45</sup> The total number of recorded complaints has increased slightly every year since 2011, primarily due to increases in the number of citizen complaints. We note that DPD officers handled a total of 514,399 calls for service in 2014.<sup>46</sup>

*Figure 3.1: Complaints Recorded by Year*



## Most Common Complaint Specifications

The most common specification<sup>47</sup> recorded by IAB in 2014 was “Duty to Obey Departmental Rules and Mayoral Executive Orders.” This specification covers a wide range of possible violations, including but not limited to unconstitutional search and seizure, improper handling of evidence and personal property, and violating procedures for searching and processing female prisoners.<sup>48</sup>

In 2014, the number of recorded inappropriate force specifications, and their percentage of the total number of specifications, increased substantially compared to 2013. In 2010, roughly 17% of all specifications related to inappropriate force. By 2013, that figure fell to 10%, and in 2014, it climbed back up to 16%. There were 210 inappropriate force specifications in 2014, compared to 128 in 2013; an increase of 64%.

*Table 3.1: Most Common Specifications*

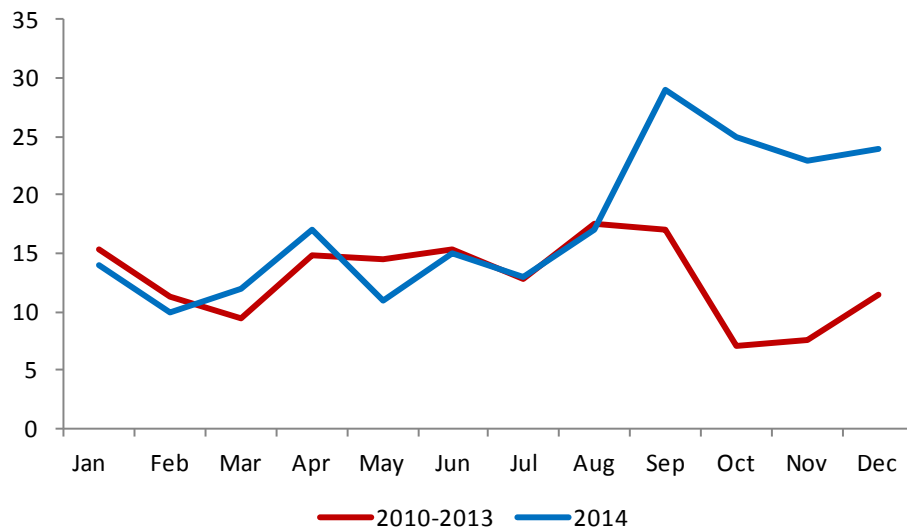
Specification	2010	2011	2012	2013	2014
Duty to Obey Departmental Rules and Mayoral Executive Orders	19%	22%	16%	19%	22%
Responsibilities to Serve Public	18%	16%	18%	26%	21%
Discourtesy	21%	23%	23%	20%	19%
Inappropriate Force	17%	15%	12%	10%	16%
Failing to Give Name and Badge Number	3%	1%	4%	3%	4%
Impartial Attitude	2%	1%	4%	3%	3%
Failure to Make or File Reports	2%	3%	3%	3%	3%
Discrimination, Harassment, and Retaliation	2%	2%	1%	2%	1%
Conduct Prohibited by Law	0%	0%	0%	1%	1%
Conduct Prejudicial	3%	3%	2%	2%	1%
All Other Specifications	12%	13%	17%	11%	9%
Total Number of Specifications	1,349	941	1,134	1,257	1,338

*Note: Percentages may not sum up to 100 due to rounding*



To better understand the possible reasons for this increase, the OIM examined patterns in inappropriate force specifications over time. Figure 3.2 shows the number of inappropriate force specifications recorded against DPD officers by month received for 2014, compared to the average number received by month for each of the four previous years combined. In earlier years, complaints of inappropriate force peaked in the late summer and then declined in the later months of the year. In 2014, there was a different trend; and inappropriate force complaints peaked in September and remained relatively high through the end of the year. A full analysis of why that happened is beyond the scope of this report. Yet, one possible factor is that the national and local attention on police use of force following the shooting of Michael Brown in Ferguson, Missouri on August 9, 2014 led to increased vigilance by the public in reporting police uses of force that were perceived to be inappropriate.

*Figure 3.2: Inappropriate Force Specifications by Month Complaint Received, 2010-2014*



## Intake Investigations and Screening Decisions

After a complaint is received, a preliminary review is conducted to determine its level of seriousness, and whether it states an allegation of misconduct or a policy and procedural concern. This may be thought of as “triage” to determine the level of resources to devote to the investigation of each complaint. IAB conducts this preliminary review (sometimes known as an “intake investigation” or “screening investigation”). The preliminary review may include a recorded telephonic or in-person interview with the complainant and witnesses, a review of police records and dispatch information, and interviews of involved officers.

Following the preliminary review, IAB supervisors determine what policies and procedures have allegedly been violated, and make a screening or classification decision that determines how the complaint will be handled. There are five common screening decisions:

### Decline

The complaint either does not state an allegation of misconduct under DPD policy, or the preliminary review revealed that the facts alleged in the complaint did not occur. No further investigation will be conducted. The OIM reviews every declined case prior to it being closed. The OIM also communicates the case outcome by mailing a letter to the complainant, along with a findings letter from IAB.

### The OIM Recommends Stronger Racial Profiling Prohibitions

In December 2014, President Obama and Attorney General Eric Holder announced a new set of guidelines designed to reaffirm the federal government’s commitment to fair and unbiased law enforcement. These guidelines expressly prohibit federal law enforcement agents from considering race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity in law enforcement decisions unless listed as part of a specific suspect description. While these guidelines only apply to federal law enforcement, the Attorney General recommended that state and local law enforcement follow these recommendations, stating that “[p]articularly in light of recent incidents we’ve seen at the local level... it’s imperative that we take every possible action to institute strong and sound policing policies.”<sup>49</sup>

Current DPD policy does not fully adhere to these federal guidelines, as it prohibits racial profiling only if it is the sole basis upon which police are making enforcement decisions. The DPD’s policy also does not prohibit profiling based on gender identity.<sup>50</sup> The DPD is currently reviewing its policy, and the OIM recommends that the DPD follow the federal government’s lead by incorporating more stringent prohibitions against profiling.<sup>51</sup>

### Informal

The complaint states an allegation of a minor procedural violation not rising to the level of official misconduct. As such, the complaint will be investigated by the subject officer's supervisor, rather than by IAB. The OIM reviews the completed investigation, and may recommend additional investigation, if warranted. If the allegation is proven, the supervisor is to debrief or counsel the subject officer and document this action.

### Service Complaint

The complaint states a general concern with police policy or services, rather than an allegation of misconduct against a specific officer. The OIM also reviews service complaints prior to case closure.

### Mediation

The complaint states a less serious allegation of misconduct, such as discourtesy, and the complainant and officer might benefit from the opportunity to discuss their interaction. The complaint will not be further investigated, but the OIM will work to schedule a facilitated discussion with a neutral, professional mediator.

### Formal

The complaint alleges misconduct under DPD policy and requires a full investigation and disciplinary review. Cases that are selected for full formal investigations are investigated by sergeants in IAB. On some serious cases, the OIM will actively monitor the investigations. When the OIM actively monitors a case, an OIM monitor will observe interviews, consult with the investigators and their supervisors on what direction the investigation should take, and review evidence as it is collected. Since active monitoring is resource-intensive, the OIM only actively monitors the most serious cases. Regardless of whether the OIM actively monitors a case, an OIM monitor reviews and comments on the IAB investigation once it is complete. The case is then given to the Conduct Review Office ("CRO") for disciplinary findings.

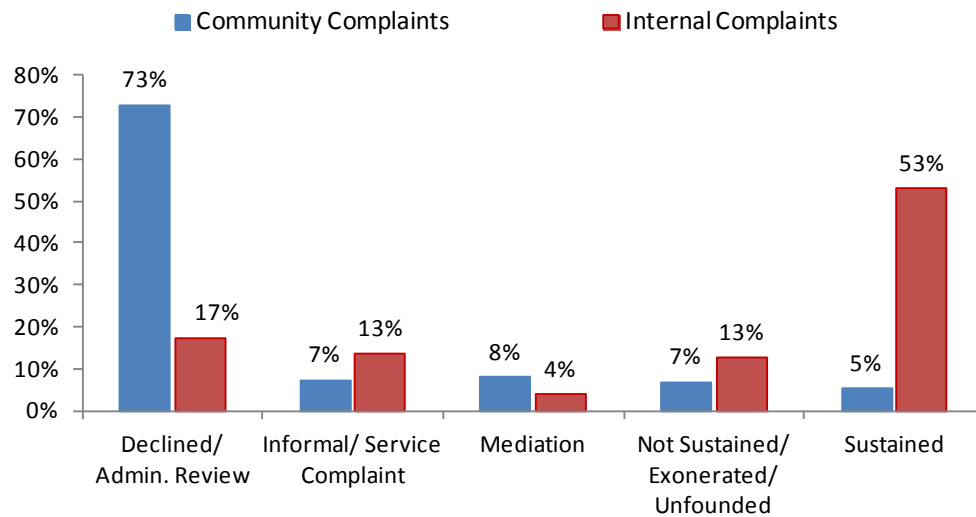
## **Findings and Discipline**

After a case is investigated by IAB and reviewed by the OIM, the case is sent to the CRO. In reviewing a case, the CRO examines the evidence, evaluates the appropriateness of the specifications assigned by IAB, and makes findings on each specification. There are generally four findings on formal investigations:

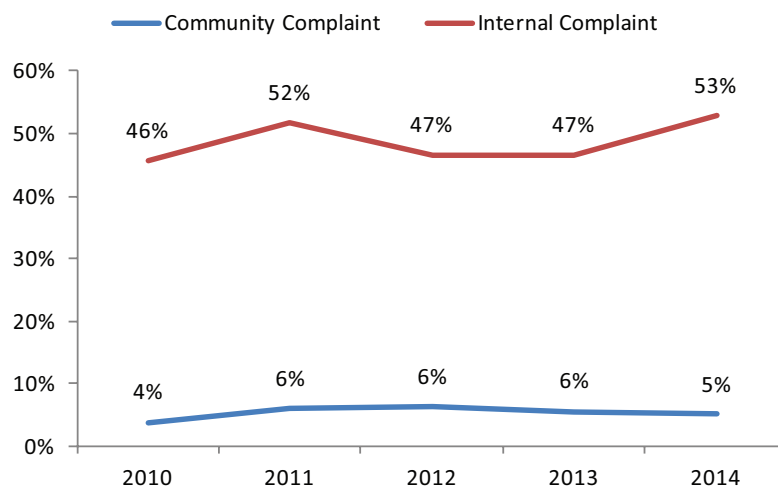
- ♦ Sustained - The evidence indicates that the officer's actions were in violation of a DPD policy, procedure, rule, regulation, or directive.
- ♦ Not Sustained - There was insufficient evidence to either prove or disprove that the alleged misconduct occurred as described in the complaint.
- ♦ Unfounded - The evidence indicates that the misconduct alleged did not occur.
- ♦ Exonerated - The evidence indicates that the officer's actions were permissible under DPD policies, rules, regulations, and directives.

## **Patterns in Outcomes on Community Complaints**

There were clear differences in outcomes between complaints filed by community members and internal complaints filed by supervisors or command staff. The majority of community complaints closed in 2014 were declined after an initial intake investigation (73%), while a much smaller percentage of internal complaints were closed as declines (17%). In contrast, internal complaints were much more likely to result in a sustained finding than community complaints. For example, 5% of community complaints closed in 2014 resulted in at least one sustained finding, while 53% of internally-generated complaints resulted in a sustained finding. These patterns are consistent with previous years.

*Figure 3.3: Outcomes on Complaints Closed in 2014*

As Figure 3.4 demonstrates, since 2010, between four and six percent of closed community complaints had at least one allegation that was sustained. In comparison, between 46% and 53% of the internal complaints closed between 2010 and 2014 had one or more sustained allegations.

*Figure 3.4 Community/Internal Complaints that Resulted in One or More Sustained Allegations*

## Discipline on Sustained Cases

If the CRO recommends that discipline be imposed, a Chief's Meeting will be held. At this meeting, the Chief of Police, the Independent Monitor (or his representative), several DPD commanders, a Deputy Chief and the Executive Director of Safety (or her representative) discuss the case and provide input to the Chief to assist him in making his disciplinary recommendation, if any, to the Executive Director of Safety. The Executive Director of Safety is closely involved in the process of advising the Chief as he formulates his recommendation, and the Executive Director of Safety also has the final authority on discipline decisions (subject to appeal). If after a Chief's Hearing (where an officer may present any mitigating information) the Chief recommends discipline greater than a written reprimand, the Executive Director of Safety has 15 days from receipt of the Chief's disciplinary recommendation to approve, modify, or disapprove the Chief's recommendation. Once the Executive Director of Safety makes a final decision, the subject officer may appeal to the Civil Service Commission if s/he is dissatisfied with the decision.

Table 3.2 reports the discipline imposed on officers for sustained allegations by the Police Chief (for reprimands) or the Executive Director of Safety (for any discipline greater than a reprimand) from 2010 through 2014. These numbers may change as a result of appeals filed with the Civil Service Commission. The most frequent discipline imposed in 2014 was written reprimands, followed by fined time and suspension without pay. Four officers were terminated in 2014.<sup>52</sup>

*Table 3.2: Discipline Imposed by Year of Case Closure*

Discipline	2010	2011	2012	2013	2014
Terminated	5	10	0	1	4
Resigned/Retired Prior to Discipline	3	1	4	9	5
Demoted	0	0	0	0	1
Suspended Time (Days)	14	27	20	19	22
Fined Time (Hours)	31	38	35	19	27
Written Reprimand	37	41	31	38	38
Oral Reprimand	12	10	9	4	3

## Significant Disciplinary Cases Closed in 2014

### Terminations

■ Two officers (Officers A & B) engaged in repeated sexual acts while on duty. Officer A lied about that conduct during an IAB investigation. Officer A was also later criminally charged with crimes characterized by domestic violence and entered into a plea agreement whereby she pled guilty to revised charges in return for a deferred judgment and sentence in that case. She was terminated for misconduct, appealed, and a civil service hearing officer reversed the disciplinary decision and ordered that Officer A be reinstated. The Department has appealed that order.

Officer B admitted to engaging in sexual acts with Officer A while on duty. He also allegedly failed to act and report that she allegedly pointed her service weapon at herself because he wanted to hide their extramarital relationship. Officer B resigned prior to a final disciplinary finding by the Executive Director of Safety.

■ An off-duty officer was arrested for DUI outside Denver County after being found asleep at the wheel of a running vehicle. The officer attempted to get out of trouble by using his status as a police officer. The officer also refused to give a statement to IAB.

The officer had prior violations involving the use of alcohol. In one prior case, he was disciplined for being intoxicated on a sidewalk near a busy roadway displaying an offensive sign against homeless individuals, which led to a physical confrontation with a private citizen. In another previous case, the officer called in sick, when in fact he had been out drinking heavily hours before his scheduled shift. He was initially suspended for 42 days in each case. Pursuant to a later settlement agreement, 20 of the 42 suspended days were held in abeyance on condition that the officer refrain from further acts of misconduct, and maintain sobriety for 24 months. In light of the new DUI case, those 20 suspended days were imposed and the officer was terminated for the new misconduct. The officer appealed and a hearing officer upheld the disciplinary decision. The officer is appealing the hearing officer's decision.

■ An officer was on indefinite leave as a result of performance issues and other concerns. While on leave, the officer was criminally charged in another county for a domestic violence incident. As a result, the officer was ordered to have no contact with his girlfriend, and was separately prohibited from exercising any police authority or taking any police action. The officer disobeyed these orders when he entered a store, identified himself as an officer, and requested store video surveillance for personal reasons. Further, the officer had contact with his girlfriend, in violation of his orders, and lied to IAB about violating the orders. The officer was terminated for this misconduct.

■ An officer requested time off to attend an out-of-town family event. After being denied part of the time requested, she engaged in dishonest and manipulative conduct by talking to different supervisors, and misleading them regarding what others knew and had already approved in regards to her request. She then made deceptive statements to IAB investigators. The officer was terminated for this misconduct, and has appealed that decision.

## **Resignations /Pre-Disciplinary Retirements**

■ An off-duty officer allegedly got into a physical altercation with another person, which resulted in one of the guns the officer had in his possession going off. The officer was in possession of two handguns at the time and according to a portable breath test, he allegedly had a BAC of .168. The officer retired before a disciplinary decision was reached.

■ An officer allegedly failed to assist a fellow officer who was involved in a physical altercation. The officer also allegedly made false statements about helping the other officer in a written report and in an IAB investigation. The officer retired before a disciplinary decision was reached.

■ Please see Officer B, on page 45 above.



- An officer was charged in another jurisdiction with sexual exploitation of a child related to materials on his personal computer. He immediately resigned his employment with the DPD.
- A detective called his supervisor during his shift and told her he was out following up on a case when he was actually at home consuming alcohol. His Breath Alcohol Content was tested later in the day and found to be .269. The detective resigned prior to discipline being imposed.

## **Other Significant Cases, Including Suspensions for Ten or More Days**

- An off-duty officer was arrested for DUI in another jurisdiction after he drove his vehicle with a BAC of .201 and caused property damage. He also had a personal shotgun in the trunk of his vehicle while intoxicated. The officer was suspended for 16 days.
- While on duty, an officer drove a department vehicle outside city limits without supervisory approval in order to pursue a personal relationship. The officer was suspended for 10 days.
- An off duty officer was arrested for DUI outside Denver County after driving his vehicle with a BAC of .121. The officer was suspended for 10 days.
- An officer displayed disrespectful behavior towards his supervisors who were attempting to counsel him on a situation in which he placed himself and others in danger. The officer had displayed similar behavior in the past. The officer was suspended for 16 days.
- A juvenile was taken into custody and brought to a hospital for medical attention, then released to his parents by an officer. Medical staff became concerned that the officer was related to the juvenile, and contacted the officer's sergeant. When questioned by the sergeant, the officer misled the sergeant by stating that the officer had "dealt" with the juvenile in the past, but that they were not related. A short time later the officer contacted the

sergeant and admitted that the juvenile was, in fact, the officer's nephew. An NCIC clearance was run after the juvenile had been released, which showed that the juvenile was wanted for felony aggravated assault. The officer was suspended for 30 days for making misleading or inaccurate statements related to the officer's official duties.

■ A person who had been romantically involved with an officer made allegations of on- and off-duty sexual misconduct against the officer. After an investigation, many of the claims were not sustained. Yet, the investigation revealed that the officer had downloaded and stored hundreds of nude and semi-nude photos on a department issued cell phone. The officer was suspended for 10 days.

■ One officer allegedly tapped or patted another on the head in a supposed friendly greeting. In retaliation, the "tapped" officer struck the other officer hard on the back of the head. The first officer was fined two days, while the second officer was suspended for 15 days.

■ An officer failed to properly investigate a DUI contact, and then also failed to properly document the incident and the reasons for the lack of investigation. The officer had prior cases involving the failure to make or file reports or take police action on incidents. The officer was suspended for 10 days. The officer is appealing the discipline.

■ An officer used an official marked DPD vehicle for personal use, including meeting a friend for lunch and then going to a movie in another county. The officer's assigned police dog was left in the vehicle, allegedly for hours. The car was parked so that it was visible to members of the public, which resulted in public concern and negative media attention. The dog was unharmed. The officer was suspended for 10 days, appealed the discipline and a hearing officer reduced the penalty to a three-day suspension. The Department initially appealed the penalty reduction, but has since withdrawn its appeal.

■ An officer was approaching a suspected stolen vehicle when the driver drove away, and the officer accidentally shot a round in the driver's side window. He was suspended for four days.

■ A captain was demoted to lieutenant for a series of acts over an eleven-month period that demonstrated an inability or unwillingness to conform to expected standards of conduct for a captain. On July 22, 2014, the captain was working off-duty at a baseball game when he contacted a citizen for a possible law violation. The citizen questioned the captain and the captain forcefully pushed the individual three times for not obeying his commands to sit down. Another citizen recorded the physical altercation on his cell phone. The captain was disciplined for using inappropriate force and failing to report that he used force, as required by DPD policy. His discipline was considered in conjunction with other recent acts, including instructing a subordinate officer to wear his uniform in violation of a Chief's order (for which he was fined two days of time), and violating a citizen's right to free speech by ripping a homeless man's sign without justification (for which he was fined four days time). He was demoted from the rank of captain to lieutenant. The lieutenant appealed the demotion, but the appeal was dismissed and he has again appealed. He has also appealed the case in which he was fined two days of time, and a decision in that case is pending.

■ An officer was arrested for driving under the influence by the Aurora Police Department after being involved in a single vehicle accident that caused property damage to a planter and a tree on a median. His blood alcohol level registered at .112 and he ultimately pled guilty to driving while ability impaired (DWAI). He was suspended without pay for 16 days.

■ An officer entered a home in order to arrest a wanted party who was attempting to evade capture. While pursuing the suspect, the officer tripped over some pillows on the floor and fell, resulting in the accidental discharge of his weapon into the floor. The shot fragmented and resulted in a superficial wound to a civilian sitting on a couch inside the home. The officer was suspended for 18 days.

■ An officer responded to a domestic violence incident and obtained pictures and a video statement from the victim. When he returned to the station, he failed to put the disc containing the statement and pictures into evidence. The suspect was criminally charged, and the prosecutor was unable to locate the evidence. Two attempts were made to contact the officer on two

different occasions via email requesting assistance in obtaining the disc. The officer received the emails but ignored them. The disc was later placed into the Property Bureau more than six months after the incident. The officer was suspended without pay for ten days, and fined two days of time.

■ Officers responded to a domestic disturbance call and made contact with a wanted party who became aggressive and threatened to fight officers. During the contact, the subject officer failed to assist other officers, allowing the suspect to run into the bathroom and lock himself in. He then came out brandishing a knife, threatening to kill himself. The officer again failed to assist in the apprehension despite being close to the wanted party. Eventually, the party was taken into custody by other officers and no one was injured. The officer was suspended for 15 days for failing to assist fellow officers.

■ On more than one occasion, a detective (who was the training officer for several civilian employees working as crime scene investigators) made offensive and derogatory remarks about a civilian supervisor's sexual orientation in the presence of the employees she supervised. The employees told the civilian supervisor, which upset her and affected the working climate in the unit. The detective was suspended for 90 days for violating several DPD policies. He initially appealed the decision, and then later withdrew his appeal.

■ A detective failed to properly investigate a theft case resulting in an innocent citizen being unnecessarily arrested. The detective overlooked important exculpatory information that another detective had previously added to the case file, and failed to provide the victim with a photographic array from which the victim could attempt to identify the guilty party. The detective was suspended for ten days, and has appealed that decision.

■ An officer was confronting a suspect who had fled from a traffic stop and entered another vehicle. The officer was drawing his handgun and turning on the attached flashlight as he stepped out of his car. The police vehicle's door swung back and threw him off-balance, causing him to unintentionally discharge a round. The bullet shattered the suspect vehicle's front window, and the suspect sustained minor injuries from the flying glass. The officer was suspended without pay for 18 days, and has appealed the decision.

■ An officer was accused by a citizen of sexual misconduct after he was called to a homeless shelter on a disturbance call. The officer made contact with the woman allegedly causing the disturbance, then drove her to find temporary lodging for the night. Over the next hour, he drove her to several hotels and motels in and outside of Denver looking for a vacancy, finally finding an available room at approximately 3 a.m. He helped her check-in to her room and left the hotel 40 minutes later. The officer failed to call out his mileage as required while transporting a female, failed to get permission to travel outside city limits, and failed to notify dispatch of his arrival at the destination. While the evidence was inconclusive about the sexual misbehavior, the officer was suspended for 20 days for his violations of DPD policy. He is appealing this decision.

■ An officer confronted a citizen inside a convenience store, and directed a profanity towards the citizen. The confrontation was captured on surveillance video and witnessed by the store clerk. The officer was suspended without pay for 13 days, appealed that decision, and the discipline was affirmed on appeal.

## Other Cases

■ A group of officers were investigating a disturbance on the 16th Street Mall when they arrested and handcuffed a suspect for domestic violence related charges and an outstanding warrant. While officers awaited the arrival of a police car to transport the suspect from the scene, he was directed to sit on the lip of a large planter/flower box. The suspect was agitated, using profanity at officers, and at one point, stood up and moved towards an officer. To gain control, officers pushed him into the planter/flower box, where he allegedly kicked two officers.

Four of the seven officers who were present either did not have BWCs or did not activate their BWCs. One was a sergeant (who was not issued a BWC during the pilot project), two officers indicated that they thought their BWCs were on when they weren't, and another officer indicated that his BWC was not working. Three officers did activate their BWCs, and a bystander also videotaped the interaction from a distance. On the available footage, one officer (Officer A) can be seen restraining the suspect face down in the planter/flower box by kneeling on the back of his neck, while other officers

assisted. The suspect was held prone in this position for approximately 3 ½ minutes, and indicated that he was having difficulty breathing during this time period. During the later internal investigation of the incident, officers stated that the suspect had been struggling, and they believed that he had been able to breathe without restriction. While the BWC footage showed Officer A kneeling on the back of the suspect's neck, Officer A said that his knee had instead been on the suspect's "upper shoulders."

Restraining a suspect in a prone position with pressure on the back of the neck risks significant injury, including positional asphyxia. The OIM believed that Officer A had engaged in a serious violation of policy that required significant discipline. Under the DPD Disciplinary Matrix, inappropriate force has a range of possible disciplinary outcomes, from Category D (a presumptive 10 day suspension) through Category F (presumptive termination of employment).<sup>53</sup> The Executive Director of Safety sustained a specification for inappropriate force, then placed it within Category D and mitigated the penalty, as the Executive Director of Safety believed that the suspect had been able to breathe throughout the interaction, did not sustain any injuries, had been the initial aggressor, and because the officer had "acknowledged the inappropriateness of his actions and has taken complete responsibility."<sup>54</sup>

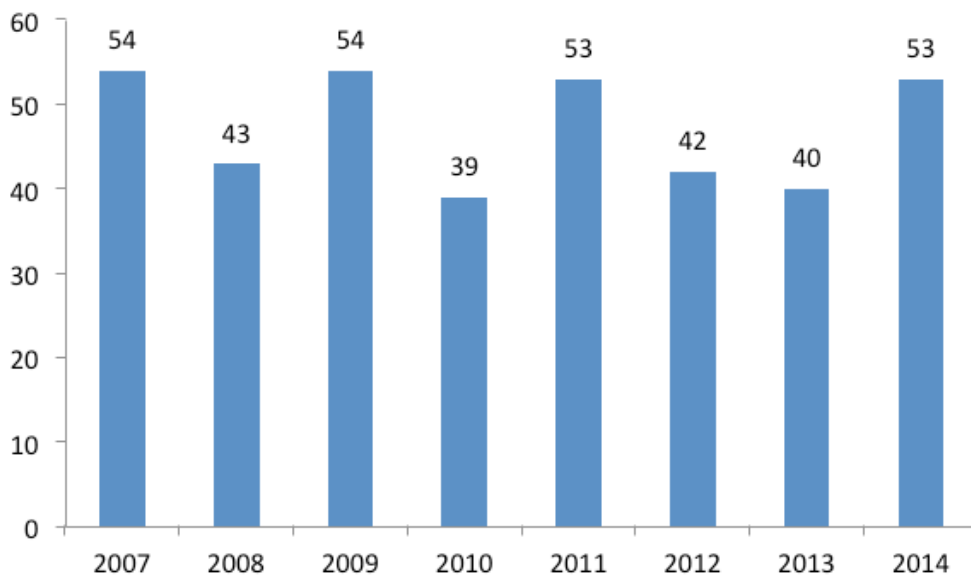
The OIM disagreed with the decision to impose the lowest possible penalty for inappropriate force allowed by the disciplinary matrix. In light of the video evidence in the case, the OIM was also troubled by Officer A's statements that his knee had been on the suspect's "upper shoulders" and that he held the suspect's head down with his hand, rather than that he had his knee across the back of the suspect's neck, as the video footage depicted.

## Mediation

The complaints handled by IAB and the OIM range from allegations of criminal conduct to less serious misunderstandings between community members and police officers, including alleged rudeness. Although allegations of inappropriate force or serious constitutional violations require the investment of significant investigative resources, discourtesy complaints can often be resolved more effectively through mediation. Mediation is a voluntary program.

In 2014, the OIM/DPD mediation program resulted in 53 completed officer-community member mediations.

*Figure 3.5: Completed Community-Police Mediations*



Denver continues to have one of the most successful complaint mediation programs in the country (Table 3.3). New York City's Civilian Complaint Review Board completed the largest number of mediations in 2014 (164). Relative to the size of each police agency, however, Denver had one of the highest mediation rates in the country, with approximately 37 completed mediations per 1,000 officers in 2014.

*Table 3.3: Mediation Rates per Officer for Agencies Conducting Three or More Officer- Community Member Mediations in 2014*

City	Agency	Sworn Officers	Mediations Completed	Mediation Per 1,000 Officers
New York City	Civilian Complaint Review Board	34,500	164	4.8
Denver	Office of the Independent Monitor	1,432	53	37.0
San Francisco	Office of Citizen Complaints	2,119	50	23.7
Washington, D.C.	Office of Police Complaints	3,945	37	9.4
Aurora	Community Mediation Concepts	677	11	16.2
Minneapolis	Civilian Police Review Authority	816	10	12.3
Kansas City	Office of the Independent Monitor	1,389	9	6.5
Portland	Independent Police Review Division	930	6	6.5

Notes: Washington D.C. Office of Police Complaint's mediation counts are for the fiscal year October 1, 2013 to September 30, 2014. All other figures are based on the 2014 calendar year. San Francisco's Sworn Officers are as of 12/22/2014. Kansas City, MO also completed 35 conciliations.



## Timeliness

The DPD implemented a new IAB case processing database (IAPro) in early 2013. Because there were significant changes in the recording of case processing dates between the old and the new databases, it is not possible for us to effectively compare timeliness between more recent and earlier years. As a result, Table 3.4 reports only the mean and median cases processing time for complaints that were recorded in the new IAPro database in 2013 and 2014 (i.e., cases received between February 22, 2013 and December 31, 2013, and all of 2014). These figures exclude the number of days required for the OIM to review investigations and discipline.

DPD IAB saw improvements in case processing times in 2014, compared to 2013. While the median processing time for all cases in 2014 was the same as in 2013 (36 days), the median process time for full formal investigations in 2014 was 51 days, compared to 55 days in 2013.<sup>55</sup>

*Table 3.4: Mean and Median Case Age for Community and Internal Complaints Received in 2013 and 2014*

Case Type	2013		2014	
	Mean Days	Median Days	Mean Days	Median Days
All IAB Cases	46.1	36	44.6	36
Open Cases	71.3	46	72.5	50
Declines, Service Complaints, Informals, and Mediations	41.6	32	36.2	28
Full Formal Investigations	62.6	55	57.8	51

## Complainant Demographics and Complaint Filing Patterns

The demographic characteristics of the 633 complainants who filed complaints against DPD officers in 2014 are presented in Table 3.5 (note that a single complaint can be associated with multiple complainants). Ninety-eight percent of complainants filed only a single complaint, while 2% filed two or more complaints.<sup>56</sup>

*Table 3.5: Complainant Demographics and Filing Patterns*

Gender	2014	Percent
Male	368	58%
Female	254	40%
Missing	11	2%
Total	633	100%
Race	2014	Percent
Black	239	38%
White	141	22%
Hispanic	79	12%
Asian	6	1%
Am Indian	6	1%
Missing	162	26%
Total	633	100%
Age - Range	2014	Percent
0 - 18	16	3%
19 - 24	66	10%
25 - 30	86	14%
31 - 40	143	23%
41 - 50	94	15%
51+	93	15%
Missing	135	21%
Total	633	100%
Filing Two or More Complaints	2014	Percent
One Complaint	619	98%
Two or More Complaints	14	2%
Total	633	100%
<i>Note: Percentages may not sum up to 100 due to rounding</i>		

## Officer Complaint Patterns

### Complaints per Officer

Table 3.6 shows the number of complaints lodged against DPD officers from 2010 through 2014.<sup>57</sup> This table includes citizen and internal complaints (regardless of finding), but excludes scheduled discipline complaints and complaints against non-sworn employees. In 2014, 59% of DPD sworn officers did not receive any complaints, while 25% received one complaint.

*Table 3.6: Percentage of Community/Internal Complaints Recorded Against DPD Officers by Year*

Number of Complaints	2010	2011	2012	2013	2014
0	56.3%	58.2%	55.7%	59.6%	59.2%
1	26.1%	26.6%	27.6%	25.1%	25.1%
2	10.9%	11.1%	10.3%	10.0%	11.0%
3	4.0%	2.3%	4.1%	3.3%	2.6%
4	1.5%	1.0%	1.4%	0.9%	1.2%
5	0.3%	0.2%	0.4%	0.4%	0.3%
6	0.5%	0.3%	0.2%	0.2%	0.1%
7 or More	0.2%	0.1%	0.1%	0.3%	0.3%
Total Sworn Officers*	1,507	1,462	1,418	1,383	1,432

\*Note: Counts of sworn officers provided by the DPD Data Analysis Unit.

## Inappropriate Force Complaints per Officer

Regarding inappropriate force complaints, nearly 10% of DPD officers received one inappropriate force complaint in 2014, while 2% received two, and fewer than one percent received three (see Table 3.7).

*Table 3.7: Percentage of Officers Receiving Inappropriate Force Complaints by Year*

Number of Complaints	2010	2011	2012	2013	2014
0	88.1%	91.9%	92.0%	92.0%	88.2%
1	9.8%	6.8%	7.2%	7.2%	9.6%
2	1.8%	1.1%	0.7%	0.7%	2.0%
3	0.3%	0.1%	0.1%	0.2%	0.3%
4 or More	0.1%	0.0%	0.0%	0.0%	0.0%
Total Sworn Officers*	1,507	1,462	1,418	1,383	1,432

\*Note: Counts of sworn officers provided by the DPD Data Analysis Unit

## Sustained Complaints per Officer

Table 3.8 reports the number of officers that had one or more sustained complaints between 2010 and 2014 (grouped by the year the complaints were closed). Five percent of officers had one complaint sustained in 2014 and less than one percent had two or more sustained complaints.

*Table 3.8: Percent of Officers with One or More Sustained Community/Internal Complaints by Year of Case Closure*

Number of Complaints	2010	2011	2012	2013	2014
0	89.5%	82.8%	82.5%	92.3%	94.2%
1	9.4%	14.3%	14.7%	6.9%	5.3%
2	1.1%	2.7%	2.5%	0.7%	0.4%
3	0.0%	0.2%	0.3%	0.1%	0.1%
Total Sworn Officers*	1,507	1,462	1,418	1,383	1,432

\*Note: Counts of sworn officers provided by DPD Data Analysis Unit

## Commendations and Awards

Every year, there are noteworthy examples of officers engaging in actions that reflect departmental values of honor, courage, and commitment to community service. Below is a list of commendations awarded to DPD officers in 2014, followed by a list of definitions for each type of commendation.

*Table 3.9 Commendations Awarded to DPD Officers in 2014*

Commendations	Number	Percent
Commendatory Action Report	200	42.6%
Official Commendation	79	16.8%
Citizen Letter	72	15.3%
Commendatory Letter	34	7.2%
Distinguished Service Cross	22	4.7%
Letter of Appreciation	14	3.0%
Unspecified	14	3.0%
Medal of Honor	10	2.1%
Life Saving Award	8	1.7%
Other than DPD Commendation	5	1.1%
Excellence in Crime Prevention	4	0.9%
District Top Gun	3	0.6%
Purple Heart	1	0.2%
Community Service Award	1	0.2%
Medal of Valor	1	0.2%
Merit Award	1	0.2%
Department Service Award	1	0.2%
Leadership Award	0	0%
Unit Commendation	0	0%
STAR award	0	0%
<b>Total</b>	<b>470</b>	<b>100.0%</b>

*Table 3.10: Commendation Types and Descriptions*

Commendation Type	Description
Commendatory Action Report	A Commendatory Action Report is generated when the Department receives complimentary information about an officer from a member of the public; the commendable action generally does not rise to the level of an official Departmental award.
Community Service Award	Awarded to an employee who, by virtue of sacrifice and expense of 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.
Department Service Award	Awarded to an individual who, through personal initiative and ingenuity, develops a program or plan (for non-leadership type of actions) which contributes significantly to the Department's objectives and goals.
Distinguished Service Cross	Awarded to employees who are cited for gallantry not warranting a Medal of Honor or a Medal of Valor.
Leadership Award	Awarded to an individual in a position of command or supervisory authority for a single or a series of incident(s)/event(s)/initiative(s) where the leadership and management actions of the individual were such that the successful outcome of the incident/event/initiative was greatly influenced by the timely, accurate, and decisive nature of the individual's actions, and which contributed significantly to the Department's mission, vision and values.
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 act to solve a major crime or series of crimes, or through personal initiative and ingenuity, develop 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 to 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.

## Highlighted Commendations

### COMMENDATORY ACTION REPORT

An out-of-state resident wrote to commend the performance of two DPD officers who assisted him when he suffered a heart attack at Denver International Airport. He believes that they helped save his life by taking quick action. He also appreciated their care and concern by assisting him in notifying his family.

### DISTINGUISHED SERVICE CROSS AWARD/MEDAL OF HONOR

Officers were dispatched to a robbery at a retail store, which quickly developed into a hostage situation. Responding officers negotiated with the suspects for several hours until the suspects surrendered without further incident. The numerous officers involved valued the lives of the hostages above their own as they continued advancing while being fired upon. The officers were awarded the Medal of Honor and the Distinguished Service Cross for their role in the incident.

### CITIZEN LETTER OF APPRECIATION

A resident wrote to commend two DPD officers stationed at the airport who assisted her when her car was struck by another vehicle that fled the scene. The officers acted quickly to apprehend the other driver, bring that person back to the airport, and help file the appropriate reports. The resident relayed that the sergeant on the scene went “above and beyond” by keeping her constantly informed about what was happening with the other driver and interacting with her young niece and nephew, and that she was grateful for the officers’ actions.

## COMMENDATORY LETTER

Two detectives were awarded Commendatory Letters for identifying a stolen vehicle and apprehending its occupants safely and effectively. While driving near a busy intersection, the detectives observed a suspicious vehicle ahead of them, which turned out to be stolen. The detectives formulated and executed a plan resulting in the safe apprehension of the occupants in the suspicious vehicle, then worked cooperatively with members of the Metro Auto Theft Task Force and officers from a neighboring jurisdiction to prepare and file a strong case. Their efforts led to the recovery of four stolen vehicles and numerous items of stolen personal property.

## LETTER OF APPRECIATION

The Chief of the Arvada Police Department sent a letter to thank a sergeant in the Airport Division for coordinating officers to assist family members flying into Denver International Airport to attend a memorial service for one of his officers. They also thanked his team for their professionalism and compassion during that difficult time.

## LIFE SAVING AWARD

A District 4 officer was awarded the Life Saving Award for saving the life of a man trying to commit suicide because he was HIV positive. When officers attempted to grab the victim, who was hanging from the 10th floor of a building, they noticed that he had a big piece of glass in his hand and deep self-inflicted wounds. The officer was able to reach out and grab the subject by his waist before he had the chance to jump, saving the citizen's life.

## LIFE SAVING AWARD

Two District 3 officers were awarded the Life Saving Award for saving the life of a suicidal juvenile. The officers worked together to address the distraught young man by distracting him for a brief moment and successfully pulling him off a bridge railing in an effort to save his life.



## EXCELLENCE IN CRIME PREVENTION

Two detectives from District 1 were awarded an Excellence in Crime Prevention award for their personal initiative, ingenuity and interview skills that lead to nine felony arrests, one misdemeanor arrest, and the seizure of two kilos of cocaine, 49 pounds of methamphetamine, four handguns, two bullet proof vests, four vehicles and \$339,844.00 in US currency.



# 4

## Denver Sheriff Department (DSD) Monitoring

### Introduction

The OIM is responsible for monitoring and reporting on patterns in DSD complaints and commendations. In this chapter, we review statistical and workload patterns relating to the DSD's 2014 complaints, investigations, findings, and discipline.<sup>58</sup>

### Highlights

- ◆ The DSD, which is currently being led by Interim Sheriff Elias Diggins, is in a period of transition. Two outside firms are currently collaborating on a “top to bottom” assessment of the DSD.
- ◆ The DSD took an important step towards improving the efficiency and quality of IAB investigations in 2014. For the first time, IAB hired a number of civilian employees to join its investigative team. We are closely monitoring the work of this unit, and have seen improvements in the investigative performance of DSD IAB to date.
- ◆ There was a 45% increase in the total number of complaints recorded against DSD sworn personnel (collectively referred to as “deputies” unless otherwise noted) in 2014, from 292 in 2013 to 424 in 2014.
- ◆ The most common complaints against deputies recorded in 2014 related to improper procedure (45%), improper conduct (16%), and excessive force (16%).
- ◆ Eight DSD deputies were terminated in 2014 while four deputies resigned or retired while an investigation or discipline was pending.

- ♦ In 2014, issues with the quality and completeness of the DSD's IAB data presented several challenges to the OIM's reporting and monitoring processes. We observed significant inconsistencies in complaint, allegation and complainant data. We are working with DSD IAB to address these concerns in 2015.<sup>59</sup>

## **Receiving Complaints against DSD Deputies**

Complaints against sworn members of the DSD generally fall into four categories: community complaints, inmate complaints, management complaints, and employee complaints.

### **Community Complaints**

Community complaints are allegations of misconduct by sworn members of the DSD that are filed by community members. See Appendices C and D which describe how complaints and commendations can be filed, and where OIM brochures are located.

### **Inmate Complaints**

Complaint/Commendation forms are available to inmates housed at DSD correctional facilities. These forms can be completed and mailed to the OIM at no charge to the inmate. As of December 2013, inmates may also file complaints by contacting the OIM by telephone, without charge, from inside any DSD jail.

### **Management Complaints**

DSD management complaints are complaints filed by a supervisor, command officer, or IAB (as opposed to a community member or inmate).

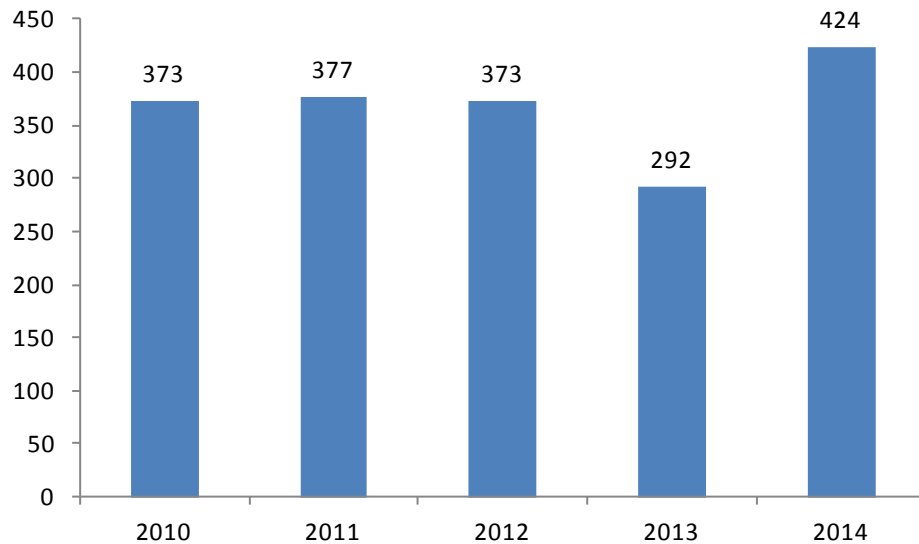
### **Employee Complaints**

Employee complaints are those filed by civilian or non-supervisory sworn employees of the DSD against deputies.

## Complaints Filed in 2014

In 2014, the DSD recorded 424 total complaints against deputies. This represents a 45% increase from 2013, when 292 complaints against deputies were recorded.<sup>60</sup>

*Figure 4 .1: Total DSD Complaints Recorded by Year*



As we have noted in previous reports, it is very difficult to explain fluctuations in the number of complaints filed over time. Patterns in complaints can change as the result of improvements to organizational policy, practice, or training. Complaint numbers can also increase or decrease in response to a range of other factors, including but not limited to media coverage or changes in the process for recording complaints.

*Figure 4.2: Complaints Recorded by Year and Case Type*

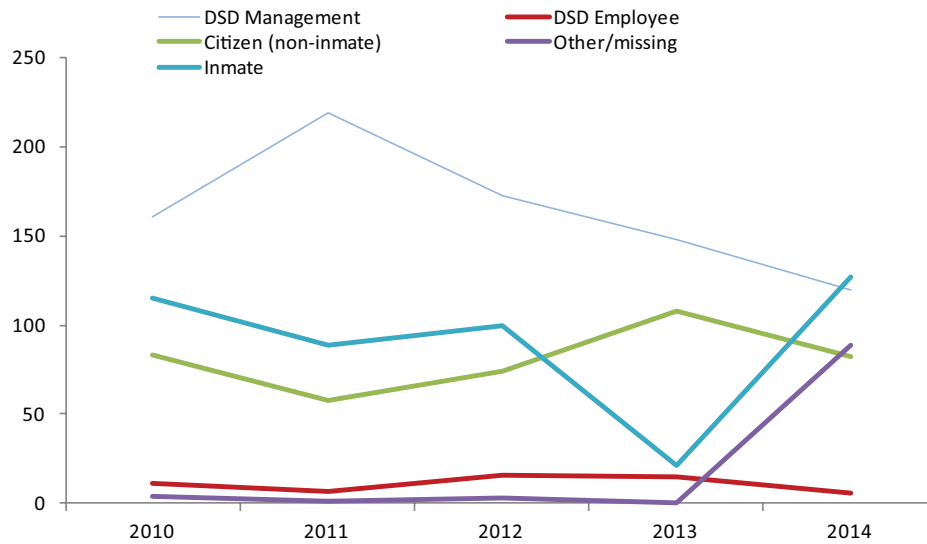


Figure 4.2 shows the number of complaints filed against deputies by complainant type and year. Complaints by DSD management have steadily declined since 2011, while complaints by inmates peaked, with 127 received in 2014. In 89 of 424 complaints received in 2014 (21%), the complainant or complainant type (e.g., inmate, employee, etc) is not recorded in the IAB database, so it was not possible to determine complaint type.<sup>61</sup> This large pool of missing data may explain some of what otherwise appears to be changes in the number of complaints by inmates and DSD management.

## Most Common Complaint Allegations

Table 4.1 reports the most common allegations recorded against DSD deputies in 2014. Complaints can include more than one allegation of misconduct. The most common allegation was improper procedure.<sup>62</sup>

*Table 4.1: Complaint Allegations by Year Recorded*

Specification	2010	2011	2012	2013	2014
Improper Procedure	13%	16%	44%	34%	45%
Improper Conduct	10%	11%	9%	22%	16%
Excessive Force	6%	6%	5%	10%	16%
Service Complaint	8%	7%	6%	5%	7%
Lost Property/Missing Property	24%	14%	12%	14%	5%
Unassigned	0%	0%	1%	4%	3%
Unauthorized Leave	9%	26%	10%	5%	3%
Law Violation	3%	3%	1%	0%	2%
Other	8%	1%	2%	1%	1%
Discourtesy	3%	5%	3%	2%	0%
Failure to Shoot	7%	4%	3%	4%	0%
Inmate Complaint	8%	5%	3%	0%	0%
Obedience to Traffic	2%	3%	2%	1%	0%

*Note: 2014 totals may not sum to 100 because of rounding; earlier years' totals may not sum to 100% because only the most common allegations in 2014 are included.*

## Complaint Location

Table 4.2 reports the location of the incidents about which complaints were recorded between 2010 and 2014. The largest percentage of complaints (61%) related to incidents occurring at the Downtown Detention Center (“DDC”). This is not unexpected since the DDC houses the greatest number of inmates in DSD custody. The County Jail had the second highest percentage of recorded complaints at 18%.

*Table 4.2: Location of Complaint by Year Received*

Location	2010	2011	2012	2013	2014
DDC (opened in 2010)	6%	54%	49%	54%	61%
County Jail	38%	25%	26%	22%	18%
Other	56%	21%	25%	24%	21%

*Note: Total percentages may not sum to 100 because of rounding.*

## Intake Investigations and Screening Decisions

When complaints are filed directly with the OIM, the role of the OIM within the intake process is limited to collecting the complainant’s contact information and the general nature of the complaint. The complaint is then forwarded to DSD IAB for their review and screening decision, which can include any of the following:

1. **Formal:** The complaint states an allegation of misconduct under DSD policy that requires a full investigation and disciplinary review.
2. **Decline:** The complaint does not state an allegation of misconduct, or the intake review reveals that the facts alleged did not occur as described by the complainant. No further action will be taken.
3. **Informal:** If founded, the complaint results in a debriefing with the subject deputy. This outcome does not necessarily indicate that the deputy engaged in misconduct.
4. **Resolved:** DSD IAB or a DSD supervisor was able to resolve the issue to the complainant’s satisfaction. No further action was deemed necessary.
5. **Referred:** The complaint is referred to another agency or division for review and handling.



6. Mediation: The complaint states a relatively “minor” allegation of misconduct, such as discourtesy, and the community member and deputy might benefit from the opportunity to discuss their interaction. Due to security concerns, the DSD does not mediate complaints filed by inmates.

The OIM monitors DSD IAB case screening decisions.<sup>63</sup> If the DSD resolves, declines, or treats the complaint as an informal, the OIM reviews the completed case and makes any recommendations that may be necessary. If the OIM agrees that the case handling was appropriate, the DSD IAB writes a letter to the complainant that explains the outcome. The OIM then forwards DSD IAB’s letter to the complainant along with a letter from the OIM.

If a case is referred for a formal investigation, it is assigned to a DSD IAB investigator.<sup>64</sup> In some serious cases, the OIM may actively monitor and participate in the investigation. In the majority of cases, the OIM will review the formal investigation once DSD IAB has completed its work.

## Disciplinary Process and Findings

After the completion of the DSD IAB investigation, the case is reviewed by the DSD CRO. The CRO makes an initial finding regarding policy or procedural violations. The OIM reviews CRO findings and separately makes a recommendation to the Sheriff.

If a deputy is found to have committed a policy or procedural violation and discipline is recommended, the deputy is entitled to attend a “pre-disciplinary meeting” (unless the only discipline recommended is a reprimand). At this meeting, the deputy can present his or her side of the story and any mitigating evidence to explain the misconduct. After this meeting, the CRO makes a disciplinary recommendation to the Sheriff, who then makes a recommendation to the Executive Director of Safety. The Executive Director of Safety then makes a final decision as to findings and discipline. If the deputy disagrees with the discipline imposed by the Executive Director of Safety, the deputy may file an appeal with the Career Service Board’s Hearing Office.

## Findings on Complaints

A complaint may contain one or more allegations, and each allegation results in a distinct finding. Table 4.3 reports the outcomes on 264 allegations closed in 2014. Nineteen percent of those allegations resulted in sustained findings, which is lower than in recent years. Forty-two percent of cases were declined, a rate that's notably higher than in recent years. While these patterns can change by year for a variety of reasons, we believe there may be two factors contributing to the trends in 2014. First, following the release of the OIM's 2013 semiannual report, which revealed that many inmate grievances were not being brought to the attention of or investigated by IAB, DSD leadership took needed steps to ensure that the process would be more responsive to all inmate grievances in the future.

### Increased Staffing for Investigations

To help clear up a caseload of many pending internal affairs investigations, in September 2014, the Department of Public Safety hired retired Arapahoe County Sheriff Grayson Robinson to lead DSD IAB on an interim basis, along with five on-call investigators with backgrounds in law enforcement to the staff of DSD IAB. Under Mr. Robinson's leadership, we have already begun to see improvements in DSD IAB's investigative process. We look forward to working with the DSD IAB team towards greater effectiveness and efficiency in 2015.

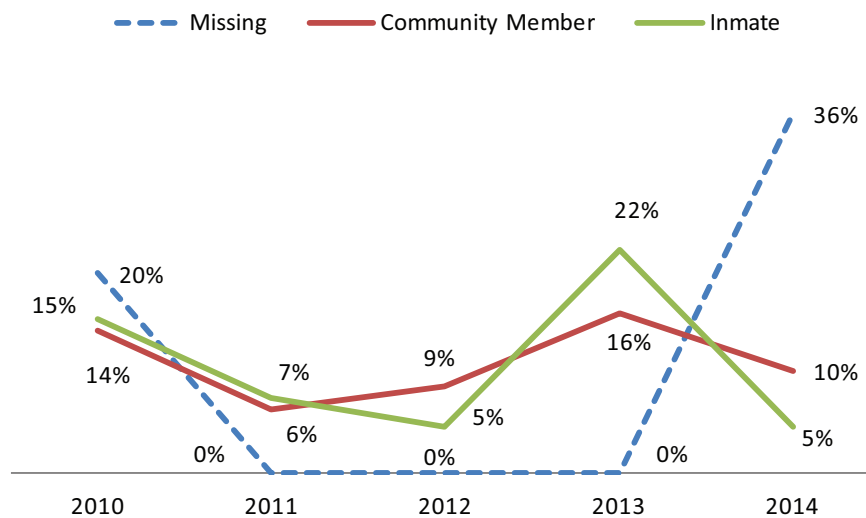
Second, under new leadership in 2014, DSD IAB increased its efficiency by appropriately identifying more complaints that could be triaged out of the formal investigation process. With the larger overall pool of IAB cases (some of which are either untrue or impossible to prove), the sustained rate decreased while the declined rate increased, suggesting recent changes in IAB procedures resulted in a more effective screening process.

*Table 4.3: Findings for Complaints Closed in 2014<sup>65</sup>*

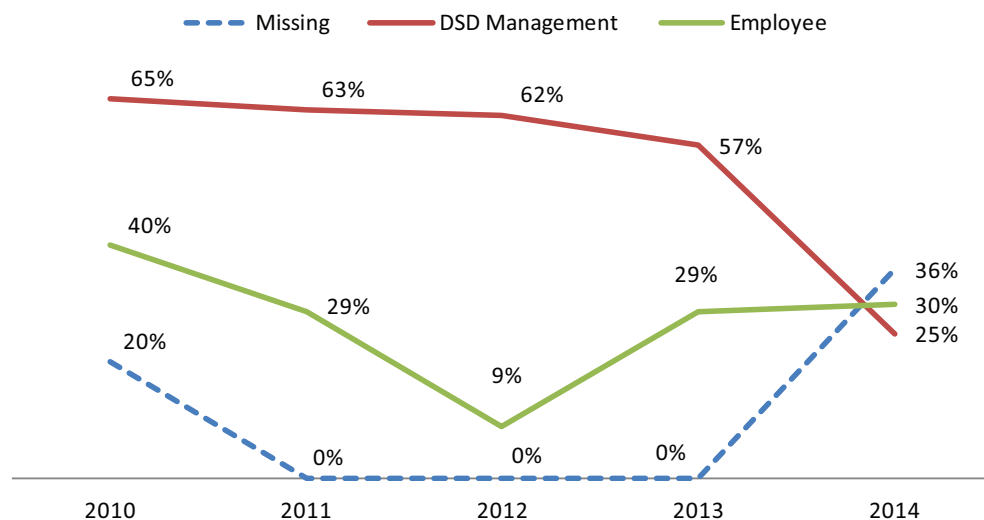
Outcome	2010	2011	2012	2013	2014
Declined	9%	11%	15%	25%	42%
Not Sustained	28%	33%	34%	29%	27%
Sustained	36%	41%	34%	36 %	19%
Informal/Referred/ Resolved	31%	16%	16%	9%	11%
Mediation	1%	0%	1%	0%	1%
Total Percent	100%	100%	100%	100%	100%

Patterns in sustain rates vary considerably across different case types. Complaints that are initiated by DSD management tend to result in sustained findings at much higher rates than complaints initiated by community members or inmates (see Figures 4.3 and 4.4). In 2014, 10% of community complaints and 5% of inmate complaints had one or more sustained findings, and the sustained rate for management complaints decreased to 25%, down from 57% in 2013. However, in 25 cases closed in 2014 (9% of total closed cases), the complaint type was missing or unknown in the IAB database, and 36% (9) of those cases were sustained, which is the highest sustained rate among all categories. Thus, missing data may explain, at least in part, what appears to be changes in sustained rates by complaint type over time.

*Figure 4.3: Complaints by Community Members or Inmates that Resulted in One or More Sustained Findings*



*Figure 4.4: Complaints from DSD Staff that Resulted in One or More Sustained Findings*



## Patterns in Discipline

Table 4.4 reports the discipline imposed between 2010 and 2014. The most common forms of discipline in 2014 were suspensions and verbal reprimands, followed by written reprimands.

*Table 4.4: Discipline Imposed on Deputies for Sustained Cases by Year of Case Closure*

Location	2010	2011	2012	2013	2014
Termination	2	4	2	5	8
Resignation/Retirement Prior to Discipline	6	9	8	4	4
Suspended Time	14	21	35	26	21
Written Reprimand	50	46	22	15	14
Verbal Reprimand	41	64	23	39	21

## Significant Disciplinary Cases Closed in 2014<sup>66</sup>

### Terminations

■ A deputy managing a housing pod in the jail violated a number of departmental rules, including failing to do required rounds, failing to do roll calls, bringing cigarettes into an unauthorized area, allowing inmates to watch music videos on the deputy's computer, letting inmates disobey the dress code, and leaving the housing lights off. The deputy also had an extensive history of violating other departmental rules. The deputy was terminated, and a hearing officer upheld the termination. An appeal to the Career Service Board is pending.

■ A deputy used inappropriate force when he struck an inmate in the face after the inmate pushed a phone towards him on the desk. The deputy then wrote a misleading and inaccurate report about why he used force and the amount of force used on the inmate. In a criminal investigation, the deputy also made a deceptive statement by stating that the inmate picked up a phone and threw it at him, striking him in the shoulder. The deputy also failed to state that he struck the inmate in the face. Video footage showed that the statements that the deputy made in both the administrative and criminal investigations were deceptive and/or misleading. The deputy was terminated, appealed, and the disciplinary decision was upheld by a hearing officer. An appeal to the Career Service Board is pending.

■ A deputy was overseeing a housing pod when an inmate attempted suicide by hanging himself with a sheet in his cell. After another inmate notified the deputy, he called for assistance, turned on the lower cells' lights, and stayed by his desk while other responders arrived. The other responders were able to cut the sheet off of the inmate's neck. Evidence revealed that the deputy kept the cell lights off later than he should have, and that he was not conducting the required two rounds per hour throughout the pod during his shift. The deputy was terminated. He appealed, and the hearing career service officer affirmed the termination. The deputy has appealed to the Career Service Board. It was also determined that the Sergeant who cut the sheet from the inmate's neck used his own unauthorized pocket knife, and the Sergeant was given a verbal reprimand.

■ An inmate who had been badly scalded by other inmates approximately two weeks earlier approached a deputy to reiterate prior requests for medical attention, and was told to return to his cell. The deputy forceably led the inmate back to his cell and pushed him inside, at which time the inmate turned toward the deputy and said something to him. The deputy then lunged at the inmate, grabbed him by the neck, and forced him onto the cell bed by the neck. The deputy also pushed the inmate's head into a wall, took him to the ground, and pushed his head toward the ground.

There was no credible evidence that the inmate posed a threat to necessitate this use of force. The deputy later admitted to being angry at the inmate and finding him "annoying." He denied choking the inmate and instead characterized his actions as a restraint to gain compliance, contrary to what could be seen in video footage of the incident. There were additional discrepancies between the deputy's statements to IAB and what he said at a deposition while under oath. The deputy was terminated for several violations of DSD policy, and he has appealed.

■ A deputy (Deputy A) was having an animated discussion with a seated inmate for about ten minutes while performing other duties. He walked across the room towards the inmate, and as he got closer, dropped a container from his right hand. The inmate stood up, and without hesitating or breaking stride, the deputy raised his right arm up, struck the inmate in the face, and knocked him to the floor.

In a written report, Deputy A stated that he defended himself because the inmate got up and approached him in an aggressive manner. However, video evidence showed that the inmate did not advance or present himself in a threatening manner. Although another deputy (Deputy B) witnessed the use of force, he did not immediately report it to his supervisor as required by DSD policy. When Deputy B prepared a written report at a later time, he did not report that he saw Deputy A strike the inmate, and he made similarly inaccurate and deceptive statements to IAB. Both deputies were terminated, and both deputies have appealed the decision.

■ A newly hired deputy with probationary employment status made remarks to another deputy that allegedly included a racial epithet. The deputy was terminated, and has appealed this decision.

■ A deputy in a housing pod made racist remarks towards an African-American female inmate. The comments upset a number of inmates and another deputy, resulting in racial tension in the pod, which the deputy failed to note in her log books.

The acting captain did not ask the deputy to write a report before the end of the shift, and allegedly told the deputy that no report was needed because the deputy did not have malicious intent. When the deputy was questioned by IAB about the incident, she made deceptive statements. The deputy was terminated and appealed, and a hearing officer modified the discipline to a six day suspension. The acting captain retired from the Department before a disciplinary finding was made.

## Resignations

■ See acting captain in termination case above.

■ A deputy had two separate cases. In the first case, the deputy abandoned post without being properly relieved and without letting anyone know the deputy had left. The deputy also left the housing unit unattended with the pod door opened. The deputy also left the janitor closet unlocked, which contained potentially harmful items, and the deputy left the computer still logged on, which controlled the housing unit doors. While the housing unit was left unattended, an inmate walked into the housing area without supervision and with open access to the computer, items in the deputy's desk and janitor's closet, potentially putting the safety and security of the jail at risk.

In the second case, video footage revealed that the same deputy failed to conduct six rounds during a shift. The deputy falsely logged into the computer system that the deputy had done four of the missed rounds. Video footage also revealed that the deputy brought an unauthorized knife and cell phone into the detention area. The deputy used the cell phone for over three hours while neglecting other duties, including turning the lights on in the pod. The deputy also allegedly failed to act appropriately after inmates alerted the deputy to an inmate medical emergency occurring in front of the deputy's workstation. Before the imposition of discipline in either case, the deputy entered into a settlement with the Executive Director of Safety and resigned.

- A deputy was criminally charged with Contributing to the Delinquency of a Minor based on a police investigation indicating that the deputy provided alcohol to female minors and engaged in other inappropriate “grooming” behavior towards them while off-duty. The deputy resigned.
- An intoxicated male who had been in a motor vehicle accident was admitted to the hospital restrained and in police custody. While at the hospital, the male started insulting a deputy. In response, the deputy allegedly grabbed the patient’s head, put his fingers in the patient’s eyes, and slammed his head on to the bed. The patient was still in a cervical collar at the time. Afterwards, the patient allegedly insulted the deputy again and the deputy repeated the action while threatening the patient. The deputy retired prior to a disciplinary decision.

## **Other Significant Cases, Including Suspensions for Ten or More Days**

- A deputy used inappropriate force when he applied pressure to an inmate’s neck or upper chest, causing the inmate to collide with a wall prior to coming to a seat on a sally port bench. The force was used to punish the inmate for comments the inmate made in the housing unit and not complying with the deputy’s order to sit down. The deputy was suspended for 10 days, appealed, and the disciplinary decision was upheld by a hearing officer. An appeal to the Career Service Board is pending.
- A sergeant entered a cell with other deputies to confront an emotionally distraught inmate who had been repeatedly banging his head against the cell wall and not complying with orders to stop. Once the deputies and sergeant entered the cell, the inmate remained seated on the bench. The sergeant ordered the inmate to stand up, turn around and put his hands behind his back so they could place him in a restraint chair. The inmate did not comply, and the sergeant ordered the deputies to tase the inmate. Video footage shows that the inmate was still seated when the deputies were ordered to tase the inmate and was not engaging in conduct that could reasonably be viewed as attempts to hurt himself or others. The sergeant was suspended for 10 days, appealed, and the discipline was upheld by a hearing officer. An appeal has been filed with the Career Service Board.



■ A deputy was disciplined in two separate cases. In the first case, the deputy made inappropriate and sexually explicit remarks in the workplace that offended and embarrassed a civilian employee. The conduct fostered an unsatisfactory working relationship between that employee and the deputy. The deputy was suspended for 14 days and appealed the decision. In the second case, the same deputy disregarded safety rules regarding high security inmates at the Correctional Care Medical Facility. He escorted an inmate who had been classified as high risk without leg restraints, against policy. He also entered a designated “two deputy” room alone, while the inmate was present, and provided an unauthorized civilian employee with DSD issued Orcutt Police Nunchuku (“OPNs”) as a joke. The deputy was also openly defiant in the presence of others, making statements about rules not applying to him, that he was in charge, and that he couldn’t be fired. The civilian employee who accepted the deputy’s OPNs was terminated. The deputy was suspended for 23 days, and appealed the decision.

On May 13, 2014, the Executive Director of Safety entered into an agreement with the deputy to settle both disciplinary appeals. In the first case, the discipline was reduced to 10 suspended days, with 4 days held in abeyance for one year. In the second case, the discipline was reduced to 13 suspended days, with 10 days held in abeyance for one year. The Executive Director of Safety agreed to reimburse the deputy for 14 days of pay for the 14 days that were to be held in abeyance. If the deputy successfully complies with the agreement and does not engage in other misconduct, the days held in abeyance will be removed from the deputy’s disciplinary history.

■ A deputy bumped into an inmate with his shoulder and then grabbed the inmate by the neck after the inmate called him names. The deputy was suspended for ten days. He appealed the decision, and the discipline was upheld by a hearing officer. The deputy has appealed to the Career Service Board.

■ A deputy demonstrated a martial arts kick near an inmate in a housing unit and then turned and approached the inmate in a fighting stance. These actions resulted in a physical struggle between the subject deputy, other deputies, and the inmate. The deputy’s written report and statements to IAB about the incident did not accurately reflect the events captured on video, particularly his own conduct leading up to the physical confrontation. The deputy was suspended for 90 days.

■ An off-duty deputy stopped at a convenience store and saw a driver parked in the vehicle next to him holding what he thought was a handgun. The deputy got out of his car, drew his weapon, pointed it at the driver, and ordered him to show his hands. The civilian dropped the gun and told him it was a BB gun. A civilian witnessed the event and called 911 to report a carjacking, assuming that the person with the gun was robbing the civilian driver and might shoot him in the head. The witness stated she did not see the deputy's badge and he did not announce himself as an officer. The off-duty deputy stated that he did announce himself as being from the Sheriff's department when he came up on the civilian driver. He was suspended for 17 days for unauthorized exercise of his authority as a peace officer, and for displaying his duty weapon in violation of DSD policy.

■ An off-duty deputy was contacted by law enforcement in Douglas County after his vehicle was observed in the middle of a large intersection blocking two lanes. When law enforcement approached the deputy, he was leaned over with his head down towards the passenger seat and slow to notice that the Douglas County deputy was shining a flashlight in his window. The DSD deputy refused to participate in any chemical testing. The deputy ultimately pled guilty to driving while ability impaired and a lane violation, and was suspended for five days.

■ A sergeant attended a three-day in-service training class, and was observed sleeping while the class was in session. He was suspended for ten days, and has appealed that decision.

■ Deputy A took a remanded party into a secured area of the courthouse while armed, against policy, while leaving another inmate and the courtroom unattended. The deputy did not call for other deputies to handle the arrested party or to cover the courtroom. Another armed deputy (Deputy B) briefly walked into the secured area to have the inmate sign court paperwork. Both deputies knew they were not supposed to be armed in the secured area. Deputy A was suspended for ten days and appealed that decision; a settlement with the Executive Director of Safety resulted in reducing the suspension to eight days. Deputy B was suspended for four days, and did not file an appeal.

■ A sergeant tased an inmate who was restrained with leg irons, handcuffs, a belly chain, a black box, and a spit hood, because she was lying on the ground refusing to get up. The sergeant had other lesser force options that he did not consider before using the taser. Further, the sergeant did not follow medical screening procedures at the jail, failing to either take the inmate to the medical unit or have medical staff at the location check her before sending her to her court appearance. The sergeant was suspended for 26 days and has appealed the decision.

■ A deputy called a supervisor an inappropriate derogatory name while on duty and in the presence of other DSD staff. The deputy also acted in an insolent manner after the sergeant questioned the deputy about it. The deputy was suspended for ten days and has appealed the decision.

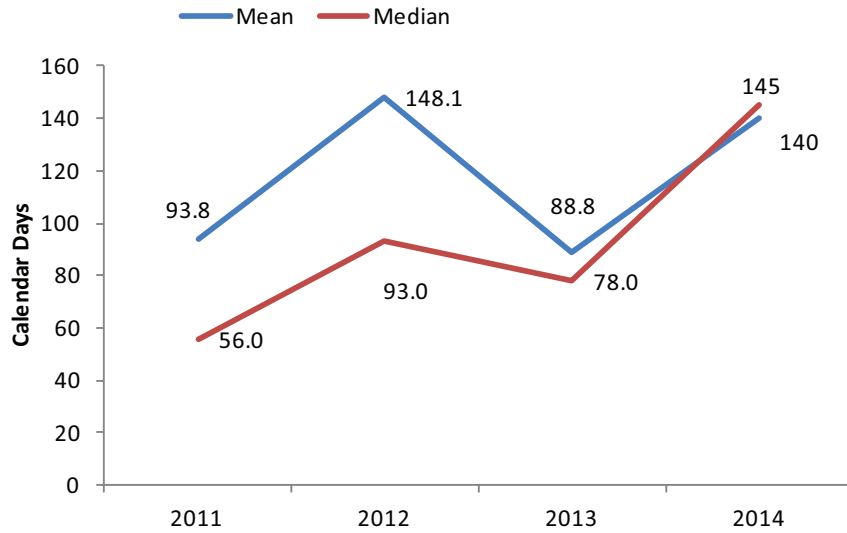
## Timeliness

Timeliness in the investigation and disciplinary review of misconduct complaints is critical for ensuring public confidence in the ability of a department to police itself. Allowing administrative investigations to languish may prevent a department from acting to quickly correct or deter deputy misconduct, may lower morale, and tends to undermine public and department trust in the complaint process.

While timeliness of the complaint handling process improved in 2013, some of these gains were lost in 2014.<sup>67</sup> To help clear up the backlog of cases and increase the efficiency of IAB case processing, in September 2014, the Department of Public Safety brought in retired Arapahoe County Sheriff Grayson Robinson to lead DSD's IAB on an interim basis, and hired five additional on-call investigators with experience in law enforcement to assist with investigations. The initial results are promising; we have seen improvements in the quality of DSD IAB investigations. In the later months of 2014, investigations progressed more quickly than they did in the earlier part of the year.

Table 4.5 shows mean and median processing times for different case types, and shows that full investigations were completed, on average, eight days faster than declines, according to case benchmark dates in the IAB database. These differences suggest that there may be ways to make the screening process for declined cases more efficient, freeing up resources for full investigations by quickly triaging out cases that are proven to be without merit, and we look forward to working with the DSD to improve the efficiency of case processing in 2015.

*Figure 4.5: Mean and Median Number of Days to Process Complaints*



*Table 4.5: Mean and Median Processing Times, by Case Type*

Case Type	Mean Days	Median Days
All IAB Cases	140.0	145
Open Cases	172.5	168
Declines	97.3	90
Full Formal Investigations	88.6	69

## Complainant Demographics and Complaint Filing

Table 4.6 presents the demographic characteristics for the 109 unique inmate and community complainants who filed complaints against sworn members of the DSD. Complainants who filed multiple complaints were counted only once in this table. Table 4.6 also reports the number of community members who filed multiple complaints against DSD deputies in 2014. Most complainants filed only a single complaint (96%) while four complainants filed two or more complaints.

*Table 4.6: Complainant Demographic Characteristics*

Gender	2014	Percent
Male	76	70%
Female	27	25%
Missing	6	6%
Total	109	100%
Race	2014	Percent
Black	34	31%
White	21	19%
Hispanic	15	14%
Asian	0	0%
Am Indian	1	1%
Missing	38	35%
Total	109	100%
Age - Range	2014	Percent
0 - 18	1	1%
19 - 24	13	12%
25 - 30	23	21%
31 - 40	25	23%
41 - 50	25	23%
51+	11	10%
Missing	11	10%
Total	109	100%
Filing Two or More Complaints	2014	Percent
One Complaint	105	96%
Two or More Complaints	4	4%
Total	109	100%
<i>Note: Total percentages may not sum to 100 because of rounding</i>		

## Deputies Receiving Multiple Complaints

### Complaints per Deputy<sup>68</sup>

Approximately 64% of sworn DSD employees had no complaints recorded against them in 2014 (this analysis excludes a number of complaints where IAB did not identify the subject deputy or the subject deputy was unknown). Approximately 23% of DSD deputies received one complaint. 13% of deputies had two or more complaints.

*Table 4.7: Percentage of Complaints Recorded Against DSD Deputies by Year Received*

Number of Complaints	2010	2011	2012	2013	2014
0	79.3%	74.4%	72.8%	76.2%	64.1%
1	17.9%	18.0%	20.6%	19.0%	23.1%
2	1.9%	5.6%	4.9%	3.8%	7.8%
3	1.0%	1.2%	1.1%	0.7%	3.0%
4 or More	0.0%	0.7%	0.6%	0.3%	1.9%
Total Sworn Deputies*	733	726	717	707	722

\*Counts of deputies provided by the DSD administration

### Force Complaints per Deputy

Nearly 10% of DSD deputies received one or more complaints that included an excessive force allegation in 2014 (see Table 4.8).

*Table 4.8: Percentage of DSD Deputies Receiving Excessive Force Complaints by Year Received*

Number of Complaints	2010	2011	2012	2013	2014
0	98.9%	98.5%	98.5%	96.7%	90.3%
1	0.5%	1.4%	1.4%	3.0%	8.6%
2	0.3%	0.1%	0.1%	0.3%	0.8%
3	0.0%	0.0%	0.0%	0.0%	0.1%
4 or More	0.3%	0.0%	0.0%	0.0%	0.1%
Total Sworn Deputies*	733	726	717	707	722

\*Counts of deputies provided by the DSD administration

## Sustained Complaints per Deputy

The majority of DSD deputies (93%) had no sustained complaints in 2014, while 6.5% had one sustained complaint. Less than 1% had more than one sustained complaint in 2014 (see Table 4.9).

*Table 4.9: Percentage of DSD Deputies with Sustained Complaints by Year Closed*

Number of Complaints	2010	2011	2012	2013	2014
0	91.8%	84.4%	89.5%	89.0%	93.2%
1	7.8%	11.8%	9.5%	9.8%	6.5%
2	0.3%	3.4%	0.8%	1.1%	0.3%
3	0.0%	0.0%	0.1%	0.0%	0.0%
4 or more	0%	0%	0%	0%	0%
Total Sworn Deputies*	733	726	717	707	722

\*Counts of deputies provided by the DSD administration



## Commendations and Awards

*Table 4.10: Commendations Awarded to DSD Deputies in 2014*

Commendations	Number	Percent
Letters of Appreciation (from Supervisors/Sheriff)	103	48%
P.R.I.D.E. Award (Personal Responsibility in Delivering Excellence)	51	24%
Employee of the Month (COJL)	12	6%
Community Service Award	6	3%
Employee of the Month (Downtown)	6	3%
Commendation Award	5	2%
Distinguished Service Award	5	2%
Employee of the Quarter (DSD)	4	2%
Unit Citations	4	2%
Merit Award	3	1%
Top Gun	3	1%
#1 Academic Award	2	1%
#1 Defensive Tactic Award	2	1%
#1 Physical Fitness Award	2	1%
Commendations (from Supervisors/Sheriff)	2	1%
Most Improved Physical Fitness	2	1%
Valedictorian	2	1%
Academy Medal	1	0%
Life Saving Award	1	0%
Medal of Valor	0	0%
Purple Heart	0	0%
Total	216	100.0%

*Table 4.11: Selected DSD Commendation Types and Descriptions*

Commendation Type	Description
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 employees who, through exceptional knowledge and behavior, perform a physical act which saves the life of another person (without danger to the officer's life).

## Highlighted Commendations

### LETTER OF APPRECIATION

Several DSD deputies, sergeants, and cadets received Letters of Appreciation for their participation in the 2014 Denver St. Patrick's Day Parade. DSD's participation, including the Youth Vehicle, Tactical Humvee, CHAMP, Honor Guard, and the DSD Posse, marks the first time it has participated as an entry organization.

### LETTER OF APPRECIATION

Three DSD sergeants and two deputies received Letters of Appreciation for providing positive leadership and mentoring to many young girls at the 5th Annual Girls Empowerment Workshop at the Dr. Martin Luther King, Jr. Early Middle College.

### LETTER OF APPRECIATION

Three deputies received Letters of Appreciation for volunteering at the 9th annual Concerts for Kids event. The deputies painted a hallway for a non-profit organization.

### LETTER OF COMMENDATION

Several DSD deputies and a sergeant received Commander's Commendations for spearheading and collaborating with the Safe City program and juvenile courts on the Safe City and Court Ordered Jail Tours. Conducted twice monthly, the tours are designed as a preventive service for juveniles by using recruited inmates to portray how wrong choices negatively impact lives.



# 5

## Critical Incidents

### Introduction and Overview

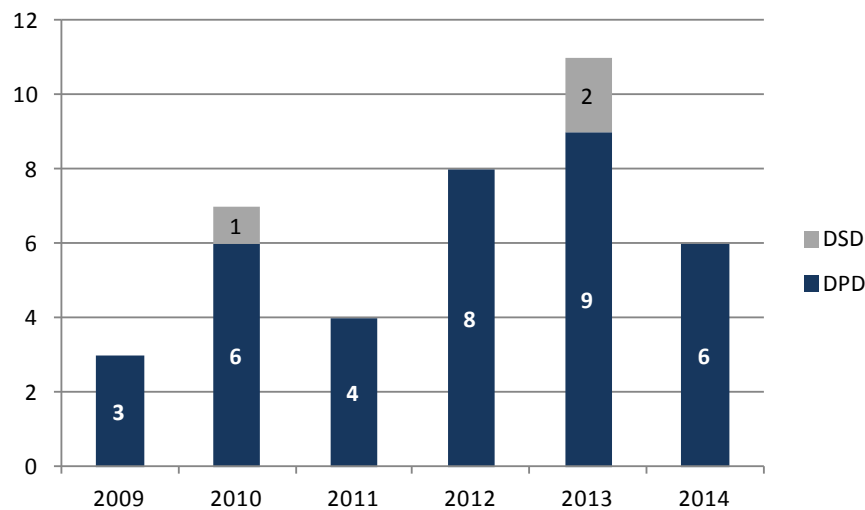
Officer-involved shootings and deaths in custody (collectively “critical incidents”) can have a profound impact on the lives of both officers and community members, and on the overall relationship between law enforcement and the community. All investigations into critical incidents should be completed thoroughly and efficiently, with a goal of determining whether the incidents were handled lawfully and according to Departmental policy. To promote transparency in the investigation and review of critical incidents, the OIM publishes regular reports regarding the status of investigations into critical incidents.

In all critical incidents, DPD’s Major Crimes Unit and the Denver District Attorney’s Office immediately respond to the scene to begin an investigation to determine whether any person should be held criminally liable. The OIM also generally responds to the scene for a walk-through and debriefing from command staff. Major Crimes detectives interview civilian witnesses and involved officers, and obtain video and documentary evidence. The OIM monitors all interviews by video and may suggest additional questions at the conclusion of each interview. After the criminal investigation is complete, the administrative review process begins.

## Patterns in Officer-Involved Shootings

On pages 97-100 of this chapter, we examine every 2014 shooting for adherence to Departmental policy. Prior to describing each individual shooting, we examine patterns in the number of intentional shootings (“Officer-Involved Shootings” or “OISs”) of citizens recorded by the DPD and DSD annually, as well as key characteristics of shootings that occurred in 2014.

*Figure 5.1: DPD and DSD Officer-Involved Shootings by Year*



In 2014, there was a decrease in the number of officer-involved shootings among both DPD officers and DSD deputies. There were six shootings involving DPD officers, and no shootings involving DSD deputies. Two OISs from 2014 have completed the DPD’s critical incident administrative review process, and both were found to be within policy; the OIM agreed with these assessments. Table 5.1 presents outcomes and characteristics of officers and subjects involved in the intentional shootings (OISs) that occurred in 2014.

*Table 5.1: 2014 Officer-Involved Shooting Characteristics*

<b>Intentional Shootings (OISs)</b>	
Total Officer-Involved Shooting Incidents	6
Citizens Involved	7
Officers Involved	10
<b>Results of Shots Fired (Intentional OISs)</b>	
Fatalities	4
Injuries	3
<b>Rank of Officers (Intentional OISs)</b>	
Officer	6
Detective	1
Corporal	1
Sergeant	1
Technician	1
<b>Race/Gender of Shooting Officers (Intentional OISs)</b>	
White Male	6
Hispanic Male	1
Hispanic Female	1
American Indian Male	1
Asian Male	1
<b>Years of Service of Shooting Officers (Intentional OISs)</b>	
0-5 years	0
6-10 years	3
11-15 years	3
16-20 years	4
20+ years	0
<b>Assignments of Shooting Officers (Intentional OISs)</b>	
District 1	3
District 4	1
Gang Unit	4
Metro/SWAT	2
<b>Race/Gender of Subjects (Intentional OISs)</b>	
Hispanic Male	5
Unknown Male	2
<b>Location of Shooting Incidents (Intentional OISs)</b>	
District 1	2
District 3	1
District 4	1
Outside of Denver	2

## **Critical Incidents: Denver Police Department**

### **Administrative Review of Critical Incidents Involving DPD Officers**

Once the District Attorney's Office has made a decision regarding the filing of criminal charges against anyone involved in an incident, the Major Crimes Unit reports are submitted to DPD IAB to commence the administrative review. The OIM confers with IAB to determine whether further investigation is necessary to assess whether there have been violations of Department policy. Once all relevant evidence is gathered, the case is submitted to a DPD Use-of-Force Board to determine whether there were any violations of the DPD's use-of-force policies. The OIM is present at all Use-of-Force proceedings and deliberations.

If the Use-of-Force Board finds that the officer's actions were in compliance with DPD policy ("in-policy"), the case is forwarded to the Chief of Police. If the Chief and the OIM agree that there were no policy violations in non-fatal shootings, the case is closed and no further administrative action is taken. In fatal shootings, the Executive Director of Safety makes the final determination and historically has issued a public report. The OIM reviews the Executive Director's findings and either concurs or disagrees.

If the Use-of-Force Board finds that the officer's actions were in violation of any Department policy ("out-of-policy"), the officer is given an opportunity to respond to the allegations and provide mitigating evidence at a "Chief's Hearing." Both the Chief's disciplinary recommendation and that of the OIM are forwarded to the Executive Director of Safety for his or her consideration.

If the OIM disagrees with a recommendation made by the Use-of-Force Board or the Chief of Police, the OIM recommendation will be forwarded to the Executive Director of Safety, who is the ultimate disciplinary decision-maker regarding critical incidents.



## DPD In-Custody Deaths in 2014

### Incident #1

On June 7, 2014, officers responded to a call regarding a suicidal party. When officers contacted the subject inside his residence, he fled through the apartment and jumped off the 7th floor balcony to his death. DPD command staff reviewed the incident and found no policy violations. The OIM concurred with their assessment.

## DPD Officer - Involved Shootings (OISs) in 2014

### Incident #1

On January 2, 2014, the DPD assisted the Thornton Police Department in a vehicular pursuit in order to arrest an armed individual involved in an alleged domestic violence incident earlier that day. Information was aired over police radio that the suspect was involved in a felony menacing and that a shot had been fired at officers. The pursuit continued through several police districts and jurisdictions outside of Denver. The pursuit terminated when police utilized a vehicle immobilization maneuver on the suspect's car, which resulted in the suspect's car hitting a police car. After the crash, the approaching officers saw the suspect rise up holding a gun. Three officers, including two DPD officers, fired on the suspect, hitting him multiple times, resulting in his death. Toxicology reports later indicated that the suspect had methamphetamine and alcohol in his system at the time of the encounter.

The District Attorney for Broomfield and Adams Counties reviewed the incident and declined to file charges against the involved officers. The Adams/Broomfield DA prepared a detailed letter reviewing the shooting, which can be found here: <http://adamsbroomfieldda.org/wp-content/uploads/2014/04/Decision-letter-re-officer-involved-shooting-Jan.-2-2014.pdf>. This case is currently under review by the DPD.

## **Incident #2**

On January 13, 2014, an individual entered a convenience store acting strangely and told an employee that he had a gun, while concealing his hand in his pocket. As a result, employees activated an “emergency button” for police assistance and called 911. A DPD officer arrived shortly thereafter. When the officer entered the store, the suspect grabbed a community member with his left hand, while concealing his right hand in his pocket positioned as though he was pointing a handgun at the hostage. The officer called for help and backed out of the store.

Other officers arrived, surrounded the store, and hostage negotiations commenced. The suspect did not comply with police commands and threatened to shoot the hostage several times during the incident. At one point, the suspect forced the hostage to go outside, where officers were present. The officers ordered the suspect to release the hostage and to put his hands up. The hostage put her hands up and tried to create distance between herself and the suspect. An officer fired a shot, hitting the suspect in the neck and causing him to fall. It was determined afterwards that the suspect did not actually have a gun. The suspect later died of his wounds. Toxicology reports indicated that the suspect had amphetamine and methamphetamine in his system at the time of his death.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officer. The DA prepared a detailed letter reviewing the shooting, which can be found here: [http://www.denverda.org/News\\_Release/Decision\\_Letters/PSdecisionletter01-17-14Matthews.pdf](http://www.denverda.org/News_Release/Decision_Letters/PSdecisionletter01-17-14Matthews.pdf). On August 27, 2014, the Use-of-Force Board met, and found this shooting to be in-policy. The OIM concurred with this assessment.

## **Incident #3**

On May 14, 2014, District 4 officers transported a handcuffed suspect to the District 4 police substation for processing. When officers attempted to remove the suspect from the vehicle, he started to slide back and forth to prevent the officers from removing him. As the officers went into the car to get the suspect, who was handcuffed behind his back, the suspect fired a handgun at them. Officers retreated from the car and took cover, and other officers quickly arrived. The suspect discharged the weapon two times before it jammed. An officer fired one shot, which struck the suspect. The suspect was treated and survived. He was later found to have been hiding bags containing more than three grams of methamphetamine in his rectum.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officers. The DA prepared a detailed letter reviewing the shooting, which can be found here: [http://www.denverda.org/News\\_Release/Decision\\_Letters/2014SisnerosLetter.pdf](http://www.denverda.org/News_Release/Decision_Letters/2014SisnerosLetter.pdf). The Use-of-Force board met on January 21, 2015 and determined that the shooting was in-policy. The OIM concurred with this assessment.

## **Incident #4**

On July 2, 2014, a sergeant from the Metro SWAT unit was involved in a buy/bust narcotics operation with a high-level narcotics dealer in Overland Park. The sergeant drove into the parking lot where the suspect was located in order to make an arrest, and the suspect allegedly locked eyes on the sergeant, reached for his pocket, and pulled out a handgun. The sergeant fired several shots at the suspect, resulting in his death. The Denver District Attorney reviewed the incident and declined to file charges against the involved officer. The DA prepared a detailed letter reviewing the shooting, which can be found here: [http://www.denverda.org/News\\_Release/Decision\\_Letters/Decision%20Letter%2008-29-2014.pdf](http://www.denverda.org/News_Release/Decision_Letters/Decision%20Letter%2008-29-2014.pdf).

The case is currently under review.

## **Incident #5**

In a another incident on July 2, 2014, officers from the Safe Streets Task Force, Fugitive Unit and Gang Unit contacted a suspect who had felony warrants and was wanted for a domestic violence incident and for auto theft. The suspect parked a stolen vehicle outside a funeral home and officers boxed the vehicle into the parking space. The officers approached the suspect and tried to get him out of the car. In an attempt to escape, the suspect backed his car up at a high rate of speed, hitting an unmarked police vehicle. He then drove forward and struck another police vehicle. A detective on the scene sustained an injury to her hamstring. Shots were fired at the suspect by multiple officers, resulting in his death. The Denver District Attorney reviewed the incident and declined to file charges against the involved officers. The DA prepared a detailed letter reviewing the shooting, which can be found here: [http://www.denverda.org/News\\_Release/Decision\\_Letters/2014-4750TejonLet.pdf](http://www.denverda.org/News_Release/Decision_Letters/2014-4750TejonLet.pdf). The case is currently under review.

## **Incident #6**

On November 20, 2014, DPD officers were involved in an officer-involved shooting in Commerce City. Both suspects survived. The incident is currently under review by the Adams County District Attorney's office.

## **DPD Accidental Shootings in 2014**

### **Accidental Shooting #1**

On March 11, 2014, officers were attempting to arrest a citizen on a warrant for a probation violation. When officers entered the suspect's home to contact him, an officer tripped over some pillows and accidentally discharged his weapon into the floor, resulting in a superficial wound to a community member inside the home. On August 27, 2014, the Use-of-Force Board met and found this shooting to be out of policy. The OIM concurred with this assessment. The officer was suspended for 18 days.

### **Accidental Shooting #2**

On March 16, 2014, an officer was confronting a suspect who had fled from a traffic stop and entered another vehicle. The officer was drawing his handgun and turning on the attached flashlight as he stepped out of the car. The police vehicle's door swung back and threw him off-balance, causing him to unintentionally pull the trigger and fire a round. The bullet entered the vehicle's front windshield, and the driver sustained minor injuries from the flying glass. On August 27, 2014, the Use-of-Force Board met, and found this shooting to be out of policy. The OIM concurred with this assessment. The officer was suspended for 18 days and the officer has appealed the discipline.

## 2013 DPD Critical Incidents Pending or Closed in 2014

### 2013 Incident #1

On April 29, 2013, an employee at a Veteran's Administration residential facility made a call to 911. She reported that one of the residents was in his room holding a "giant pair of scissors," and threatening to kill himself. She further reported that he suffered from "schizo-affective, PD, PTSD, schizophrenia." An officer responded and found the male in his room in an agitated state, holding large scissors. The officer asked the subject to put the scissors down multiple times. He allegedly refused and began to take steps toward the officer while opening and closing the scissors. The officer shot the subject in the rib cage with a 40mm less lethal round. The strike had no apparent effect on the subject, who allegedly threw the spent 40mm projectile back at the officer. The officer continued to order the subject not to come any closer. However, the subject continued to step toward the officer while holding the scissors. The officer switched to his handgun and shot the subject several times. The subject was hit but survived.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officers. The DA prepared a detailed letter reviewing the shooting, which can be found here: [http://www.denverda.org/News\\_Release/Decision\\_Lett ers/2013July5DreyfussInvestigation.pdf](http://www.denverda.org/News_Release/Decision_Lett ers/2013July5DreyfussInvestigation.pdf). The DPD Use-of-Force Review Board concluded that the shooting was within policy, but referred the shooting to the DPD's Tactics Review Board. The OIM concurred with this assessment. The Tactics Review Board recommended that the officer receive additional training.

### 2013 Incident #2

On August 13, 2013, officers responded to a 911 call of a mentally ill man threatening people and passing cars with a knife. Upon contact, officers confirmed that the man was armed with a knife. Officers immediately started commanding the man to drop the knife and get on the ground. The man refused to comply and instead started to approach the officers. One of the officers fired a pepper ball gun at the man, but it had no apparent effect. Officers attempted to take cover behind patrol cars as the man continued to advance on them, prompting an officer to shoot at

him with a Taser. The man moved towards another officer who yelled at the man to drop the knife. Although the officer was retreating, the man closed the distance on the officer and continued threatening with the knife. The officer fired his handgun multiple times at the man, until he passed the officer and fell on the ground, dying from the gunshot wounds.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officers. The DA prepared a detailed letter reviewing the shooting, which can be found here: [http://www.denverda.org/News\\_Release/Decision\\_Letters/2013%20BechtoldShootLetter.pdf](http://www.denverda.org/News_Release/Decision_Letters/2013%20BechtoldShootLetter.pdf). The DPD Use-of-Force Review Board met on February 4, 2014, and concluded that the shooting was within policy. The OIM concurred with this assessment.

### **2013 Incident #3**

On August 19, 2013, at night, an officer was investigating a stolen motor vehicle report when he observed a vehicle possibly matching the description parked along the side of the road. The officer attempted to make contact with the person inside the possibly stolen vehicle. The officer had his gun drawn and was utilizing the tactical light on his gun to see inside the car. The officer grabbed the car door handle to open it. The driver quickly sped off, and the officer lost his balance and stumbled backwards. The gun accidentally discharged in an upward direction. The officer believed this might have happened when his finger slipped off the tactical light switch on the gun when he stumbled. The stolen vehicle was later found abandoned with a bullet entry hole through the driver's side window and an exit bullet hole through the windshield. There was a small amount of blood on the driver's seat and center console. The suspect driving the vehicle was not found.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officer. The DPD Use-of-Force Review Board met on February 4, 2014, and concluded that the shooting was out of policy. The OIM concurred with this assessment. The case was also sent to a Tactics Review Board for a review of the tactics used in this situation. The Tactics Review Board recommended the officer receive additional training on proper tactics involving high-risk vehicle stops as well as use of a weapon-mounted light. On March 12, 2014, the Executive Director of Safety suspended the officer for four days.

## 2013 Incident #4

On August 16, 2013, officers responded to a call that a woman had been shot by her husband, who had just left the house armed with a shotgun, which he was shooting again. Upon arrival, officers observed the suspect armed with a rifle, as well as propane tanks set in the middle of the road. Dispatch informed officers that a family member reported that the suspect wanted to have a shoot-out with officers. While the officers established a perimeter and attempted to get the suspect to surrender, they witnessed the suspect shoot one of the propane tanks, which started leaking gas. They also observed an unresponsive female on a nearby porch. For several minutes, officers attempted to give commands to the suspect to surrender and put down his weapon. He refused and a stand-off ensued. The suspect reported having hostages during the stand-off, though none were seen in his immediate vicinity. Officers were authorized by Command to take a shot, if they could safely do so. A sergeant armed with a rifle got into position and attempted to get the individual to surrender. The suspect did not and, when the suspect turned towards the officer, the officer fired, and the suspect went down. The suspect was injured by the shot and taken into custody. The District Attorney's Office later charged the suspect with shooting and injuring his wife as well as the murder of their neighbor. The suspect was also charged with the Use of Explosives or Incendiary Devices and Child Abuse.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officers. The DA prepared a detailed letter reviewing the shooting, which can be found here: [http://www.denverda.org/News\\_Release/Decision\\_Letters/2013HeimbignerLet.pdf](http://www.denverda.org/News_Release/Decision_Letters/2013HeimbignerLet.pdf). The DPD Use-of-Force Review Board met on March 25, 2014, and concluded that the shooting was within policy. The OIM concurred with this assessment.



## **2013 Incident #5**

On September 21, 2013, a male wearing sunglasses, a hood pulled over his head, and a band-aid on each cheek, entered a bank and handed a teller a demand note stating, “don’t do anything funny, don’t give me any funny money, don’t give me any dye packs.” An off-duty officer in full uniform was providing security for the bank, and noticed the suspect’s unusual dress when he entered the bank. The officer was already suspicious due to a recent report of a robbery at a nearby liquor store. Concerned that parties might be attempting to divert police resources away from the bank, the officer walked up behind the suspect as he approached the teller and saw the suspect hand the teller a note and open the bag that he was carrying. He saw the teller place large sums of money into the bag. After the suspect started to walk away, the officer confirmed with a nod from the teller that a robbery had just taken place. The officer followed the suspect outside, as he did not want to contact him in a bank where others could get hurt. When the suspect passed the inner door to the bank, the officer grabbed his shoulder and said, “Police! Do Not Move!” The officer reported that the suspect pulled out a gray handgun and started to turn very quickly towards him. In response, the officer turned with him and rapidly fired three rounds at the suspect, killing him. It was later determined that the suspect’s handgun was a toy.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officer. The DA prepared a detailed letter reviewing the shooting, which can be found here: [http://www.denverda.org/News\\_Release/Decision\\_Letters/2013%20Faris%20Shoot%20Letter.pdf](http://www.denverda.org/News_Release/Decision_Letters/2013%20Faris%20Shoot%20Letter.pdf). On June 19, 2014 the DPD Use-of-Force Review Board concluded that the shooting was in-policy. The OIM concurred with this assessment.

## **2013 Incident #6**

On November 8, 2013, a man called 911 to report that he had violated probation, had been “shooting meth” for days, and was armed with a butcher knife. He ended the call with a request that police come and kill him or he would “stab them in the goddamn eyeball.” When police arrived, they could see him inside armed with a large butcher knife. Officers spoke to him and asked him to come out of the apartment so he could be helped. They asked him to drop the knife. He refused and told the officers that, “I want you to shoot me. I don’t want to come out. You are



going to have to shoot me.” Ultimately, officers entered his apartment two times in attempts to prevent him from harming himself. During the first entry, an officer observed the male advance towards him in a “deliberate” manner while holding the knife by his side. As the male closed the distance on the officer, the officer fired a less-lethal round at him. The round hit the male, but it did not cause him to drop the knife. The officer was able to retreat out of the house. Later, officers entered the apartment a second time and the male advanced on the lead officer with the knife raised. Seeing the male lunge with the knife at an officer, another officer fired his handgun twice, striking the male once in the chest. The male survived.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officers. The DA prepared a detailed letter reviewing the shooting, which can be found here: [http://www.denverda.org/News\\_Release/Decision\\_Letters/Decision%20letter%20re%2011-8-2013%20Officer-involved%20shooting%20--%20Officer%20Daniel%20McIntosh%20.pdf](http://www.denverda.org/News_Release/Decision_Letters/Decision%20letter%20re%2011-8-2013%20Officer-involved%20shooting%20--%20Officer%20Daniel%20McIntosh%20.pdf). On June 18, 2014, the DPD Use of Force Board met and found the shooting to be in policy. The Board also recommended the case be reviewed by the Tactics Review Board. The OIM deferred to these decisions.

## 2013 Incident #7

On November 27, 2013, a sergeant attempted to contact a suspicious male in downtown Denver. When the sergeant asked for identification, the male fled on foot and the sergeant chased him into a parking lot. The male proceeded to get into a vehicle and drive away. While driving away, the suspect allegedly turned the vehicle towards the sergeant. The sergeant shot at the driver four times rapidly as the vehicle approached him. The vehicle turned, left the area, and was later found abandoned. The male suspect was also found later. No one was hit by any shots fired during the incident.

The DPD Use-of-Force Review Board met on March 25, 2014 and concluded that the shooting was within policy, but referred it to a Tactics Review Board for an assessment of the officer’s tactical decisions during this encounter. The OIM concurred with this assessment.

## **Critical Incidents: Denver Sheriff Department (DSD)**

### **In-Custody Death Investigation and Review Protocol**

In all critical incidents, DPD's Major Crimes Unit responds to the scene to begin an investigation to determine whether any person should be held criminally liable. If the incident warrants it, the OIM also responds to the scene of the incident for a walk-through and debriefing from command staff. Homicide detectives interview all witnesses and every involved officer, and obtain video and documentary evidence. The OIM video monitors all interviews conducted by the Major Crimes Unit and may suggest additional questions at the conclusion of each interview. After the criminal investigation is complete, the administrative review process begins.

### **Administrative Review of Critical Incidents Involving DSD Deputies**

Once the District Attorney's Office has made a decision regarding the filing of criminal charges against anyone involved in the incident, the Major Crime Unit's reports are submitted to DSD IAB to commence the administrative review. The OIM confers with IAB to determine whether further investigation is necessary to assess whether there have been violations of Departmental policy. If, after reviewing the investigation, the Conduct Review Office finds that the involved deputy's actions were in compliance with DSD policy ("in-policy"), the case is forwarded to the Sheriff. If the Sheriff agrees there were no policy violations, the case is closed. The OIM reviews the Conduct Review Office's findings and makes recommendations to the Sheriff and the Executive Director of Safety.

If the Conduct Review Office finds that the involved deputy's actions violated any Department policy ("out-of-policy"), the case is referred to the Sheriff for a "Pre-Disciplinary Hearing." The OIM observes the hearing and the deliberations of the Command Staff. At that hearing, the involved deputy is given the opportunity to present his or her side of the story, including mitigating evidence, if any. After hearing from the involved deputy, the OIM makes disciplinary recommendations to the Sheriff. Both the Sheriff's recommendations and that of the OIM are forwarded to the Executive Director of Safety for consideration. The Executive Director of Safety determines whether the deputy's actions were "in-policy" or "out-of-policy" and the appropriate level of discipline, if any.

## **DSD In-Custody Deaths in 2014<sup>69</sup>**

### **2014 DSD In-Custody Death #1**

On April 21, 2014, an inmate was found unresponsive in his cell at the DDC, apparently having hung himself, and was pronounced dead shortly after being discovered. The incident is currently under investigation.

## **DSD Accidental Shootings in 2014**

### **Accidental Shooting #1**

On December 3, 2014, a deputy allegedly discharged his/her weapon while cleaning it at a shooting range, hitting a wall with a bullet. The incident is currently under investigation.

## **DSD 2013 Critical Incidents Pending or Closed in 2014**

### **2013 Incident #1**

On September 8, 2013, during weapons training at the firing range, a DSD recruit bent down to retrieve her handgun, which had been placed on the ground. While picking up the gun, the recruit lost control of it, and as she attempted to regain control of it, she accidentally pulled the trigger. The weapon discharged one round into the concrete floor down range. Three recruits standing nearby were struck with debris from the impact, and they were all treated for superficial wounds.

On January 28, 2014, the Executive Director of Safety found that the shooting was out of policy. The OIM concurred with this assessment. The deputy received a one day suspension.

## **2013 Incident #2**

On May 11, 2013, a nurse discovered an unresponsive inmate while passing or administering medications at the DDC. The inmate was transported to the Denver Health Medical Center, where she later died. The case is currently under investigation.

## **2013 Incident #3**

On September 26, 2013, a deputy found an unresponsive inmate in his cell. Medical personnel responded and were unable to revive the inmate. The Office of the Medical Examiner determined that the death resulted from natural causes. This case is currently under review.

## **2013 Incident #4**

On November 28, 2013, an inmate became unresponsive in the back of a DSD scout van while being transported from a DPD district station to the DDC. The DSD deputies transported the inmate to the Denver Health Medical Center, where he later died. This case is currently under review.

# Endnotes

1. The OIM did not have direct access to body worn camera footage of the incidents discussed in this chapter unless the incident led to an investigation of alleged misconduct, and DPD IAB uploaded the BWC footage to the IAB complaint file.
2. The DPD is working with an outside researcher and TASER International, Inc. to conduct an evaluation of the BWC program, which will likely offer additional findings. The OIM requested to speak to the Principal Investigator of this evaluation to learn more about the methods and timeline for this study, but the researcher was unable to speak due to confidentiality requirements. The analyses conducted by the OIM and presented in this chapter are in no way intended to supplant that research.
3. City and County of Denver Formal Proposal No 7256: Body Cameras and Video Data Storage Management.
4. Michael B. Hancock, Mayor, 2015 Budget, at 418.
5. E-mail from Stephanie O'Malley, Executive Director of Safety, to Nicholas E. Mitchell, Independent Monitor, March 5, 2015 (on file with OIM).
6. TASER International website, <http://www.taser.com/products/on-officer-video/axon-flex-on-officer-video#mounting>.
7. DPD Body Worn Camera Procedure and Retrieval Process § 1(A).
8. DPD Body Worn Camera Testing and Evaluation Policy § 111.11(5).
9. DPD Body Worn Camera Testing and Evaluation Policy § 111.11(6).
10. DPD Body Worn Camera Testing and Evaluation Policy § 111.11(8).
11. While the DPD's pilot project officially commenced on June 23, 2014, officers who were out of the office or on vacation did not receive BWCs right away. The DPD has indicated that all patrol officers had BWCs by July.
12. Use of force data were obtained from the DPD's Early Identification and Intervention ("EIIS") database, which contains information used for Early Intervention System PAS reviews, containing 1,405 use of force incidents and 1,308 complaints in the 2 year time period. OIM analysts also obtained complaint data from the IAPro database to measure the frequency of complaints.
13. DPD Operations Manual § 105.02.
14. DPD Body Worn Camera Testing and Evaluation Policy § 111.11(5).
15. Footage was considered to be "full and usable" if the supervisor noted that at least one responding officer's BWC captured the use of force being investigated. This category excludes several incidents where supervisors noted that footage was available but did not capture the use of force

## Endnotes

- (such as when the camera was activated after the use of force or turned off too soon), and where the supervisor noted that the footage was unusable (such as when the audio and/or video were obscured and not useful to the use of force investigation or the footage failed to download).
16. Appropriate significance tests were run to test for differences in proportions within ordinal variables (chi-sq tests) and differences in means among continuous variables (independent samples t-tests). Differences were reported and considered significant only if alpha ( $\alpha$ ) was less than .05 ( $p < .05$ ). These analyses can be found in supplemental material online at [www.denvergov.org/OIM](http://www.denvergov.org/OIM).
  17. DPD Body Worn Camera Testing and Evaluation Policy § 111.11(5).
  18. The current procurement process requires all potential vendors to provide a one-year warranty and a buy-back/upgrade program. See City and County of Denver Formal Proposal No 7256: Body Cameras and Video Data Storage Management at 18.
  19. See Denver Auditor Dennis J. Gallagher, Police Department Administration Performance Audit, February 2013 at 34.
  20. “Inside 1331, Denver Police Body Cameras”  
<https://www.youtube.com/watch?v=7W7U1EGwY9E>, beginning at 21:36.
  21. See generally DPD Operations Manual § 114.01.
  22. See, e.g., Alan Gathright, Mayor Hancock praises ruling upholding firing of two police officers in Denver Diner beating case (available at: <http://www.thedenverchannel.com/news/local-news/judge-upholds-firing-of-denver-police-officers-in-2009-beating-case>).
  23. See DPD Operations Manual § 114.01(8).
  24. This includes off-duty officers who were normally assigned to other DPD districts and not to District 6.
  25. Interview with Commander Magen Dodge, “Inside 1331, Denver Police Body Cameras”  
<https://www.youtube.com/watch?v=7W7U1EGwY9E>.
  26. Researchers evaluating the use of BWCs in Rialto, California estimated that, for every dollar spent on the program during the experiment, there were four dollars worth of benefits resulting from the use of the cameras. See Ariel et al, 2014 at page 20 (in online version).
  27. DPD Body Worn Camera Testing and Evaluation Policy § 111.11(5).
  28. International Association of Chiefs of Police, Body-Worn Camera Model Policy, III(2) (April 2014), and International Association of Chiefs of Police, Body-Worn Camera Concepts and Issues Paper.
  29. Barak Ariel, Alex Ferrar, and William A. Sutherland, The Effect of Police BWCs on Use of Force and Citizens’ Complaints Against the Police: A Randomized Control Trial, *Journal of Quantitative Criminology* (2014).

30. The OIM conducted a separate analysis to compare the frequency of uses of force and complaints among District 6 patrol officers that occurred only when these officers were on-duty during the pilot project, to the frequency of complaints and uses of force for those same officers while on-duty in 2013. We were unable to complete this analysis using only the quantitative data available because the indicator identifying incidents as on- or off-duty had a high rate of missing data.
31. Use of force incident counts include all cases with file numbers beginning with “U” contained in the DPD’s EIIS database. These counts are slightly higher than the number of uses of force discussed elsewhere in Chapter 2 because they include all cases that fall under the DPD’s Duty to Report requirements (see OMS 105.02 for a full list), including incidents in which DPD officers filled out use of force reports because citizens were injured prior to or during an arrest, even if no force was used by DPD officers.
32. Source: Complaint and Use of Force Data extracted from the DPD’s Internal Affairs Database (IAPro) on February 17, 2015.
33. This analysis of trends in complaints and uses of force is purely descriptive and does not control for other factors that may influence these trends, such as crime rates, number of citizen contacts, protests and other irregular events.
34. Rialto Police Department Policy Manual § 451(2)(I)(2)(d)(a) (available at: [http://www.aele.org/Rialto\\_BWCs.pdf](http://www.aele.org/Rialto_BWCs.pdf)).
35. Barak Ariel, Alex Ferrar, and William A. Sutherland, The Effect of Police BWCs on Use of Force and Citizens’ Complaints Against the Police: A Randomized Control Trial, *Journal of Quantitative Criminology* (2014).
36. See, e.g., R. Surette, *The Thinking Eye: Pros and Cons of Second Generation CCTV Surveillance Systems*, 28 *Policing*, 152 (2005); J. Ratcliffe, *Video Surveillance of Public Places*, Response Guides Series No 4. US Department of Justice (2006).
37. DPD Body Worn Camera Procedure and Retrieval Process.
38. See, e.g., DPD Disciplinary Handbook at §§ 1.4, 2.3.
39. DPD Body Worn Camera Testing and Evaluation Policy § 111.11(6).
40. Id.
41. Id.
42. For the pilot project, the DPD distributed the BWC Policy, which we have discussed at length in this Chapter, as well as a Body Worn Camera Operations Procedure & Retrieval Process (“Operations Procedure”), which also included relevant information about procedures during the pilot. While these two policy documents both contain very useful information, they appear to conflict regarding the retention of BWC footage. The BWC policy states that all video captured by BWCs “will be deleted from the system after one year,” unless it has “evidentiary or administrative investigatory value,” in which case it will be placed into long-term storage.

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- The Operations Procedure, however, includes a retention schedule that requires different types of video to be stored for time periods of varying lengths. For example, video that relates to investigations into death, sex assault, and missing persons cases would be retained indefinitely. Yet, video of other public “contacts,” including all other “contacts, citations and non-enforcement actions” is to be retained for a period of three years.
43. Lindsay Miller, Jessica Toliver, and the Police Executive Research Forum, *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*, Office of Community Oriented Policing Services (2014), at 26.
  44. Some feedback has been solicited to date. Specifically, on September 4, 2014, roughly two months into the pilot project, DPD command staff were invited to present on the BWC program at a quarterly public forum of the Citizen Oversight Board. At this event, the COB and community members were given an opportunity to ask questions and share their thoughts on the use of BWCs.
  45. The data for this chapter were obtained from the Denver Police Department’s Internal Affairs records management database (IAPro). The OIM is not an IAPro administrator and has no control over data entry into the database. The OIM does not conduct governmentally approved audits of the database for accuracy. As a result, the OIM is unable to certify the accuracy of the DPD’s Internal Affairs data. Finally, because the OIM is not the final arbiter of what allegations to record in IAPro and against which officers, the OIM cannot certify that the data presented (with respect to specific complaint allegations) is what it would be if the OIM were making these decisions. Since these data were drawn from dynamic, live databases, the recorded complaint, allegation, and outcome numbers will fluctuate over time, and are subject to revision. The figures reported in this chapter include only complaints against sworn DPD officers. Community and internal complaints numbers do not include “scheduled discipline” cases (e.g., when a DPD officer allegedly violates a traffic law, gets into a preventable traffic accident, or misses a court date, shooting qualification, or continuing education class.) The OIM excluded duplicate cases and all cases that did not involve a direct allegation against a sworn officer from all counts and analyses.
  46. E-mail from Matt Murray, DPD Commander and Chief of Staff, to Nicholas E. Mitchell, Independent Monitor, March 9, 2015 (on file with OIM).
  47. The DPD does not systematically track the detailed allegations made by complainants in its IAB database. Allegations are assertions, in a complainant’s own words, of particular kinds of purported misconduct by an officer. Instead, it tracks “specifications.” Specifications are rule violation categories that are based upon the departmental rules and disciplinary policies implicated by a complaint. Thus, a specification captures the rule under which an officer might be punished, rather than the precise allegations communicated in the complaint.
  48. Rules and Regulations for the Police Department of the City and County of Denver Colorado.
  49. See <http://www.justice.gov/sites/default/files/ag/pages/attachments/2014/12/08/use-of-race-policy.pdf> for the full policy; <http://www.washingtonpost.com/world/national-security/justice-dept-to-announce-new-rules-to-curb-racial-profiling-by-federal-law->



- [enforcement/2014/12/07/e00eca18-7e79-11e4-9f38-95a187e4c1f7\\_story.html](#) for Attorney General's remarks.
50. DPD Operations Manual § 118.01.
  51. <http://www.cpr.org/news/story/denver-police-guidelines-leave-door-open-racial-profiling-aclu-says>.
  52. Note that several termination cases are under appeal with the Civil Service Commission, as well as the courts. As a result, these totals are subject to revision until all appeals have been exhausted. In addition, counts of discipline imposed may change from what was reported in earlier years if DPD's IAB updates their data at a later date. This can happen for several reasons. For example, if fined time or suspended time are held in abeyance and an officer successfully completes the abeyance period, if a settlement is reached that results in a modification of discipline, or if IAB otherwise changes or modifies its data.
  53. DPD Discipline Handbook, Appendix F.
  54. Denver Department of Safety, Department Order of Disciplinary Action, dated January 30, 2015, at 3.
  55. DPD Timeliness figures were calculated by measuring the number of days between the date a case was received and the date a case was completed, and subtracting the total number of days the case was with the OIM for either investigative or disciplinary review. For cases that opened in 2014 but were not yet completed at the time of the analysis, OIM analysts used the date of data extraction (January 7, 2015) as the end date.
  56. DPD IAB will sometimes combine multiple complaints made by one individual under a single case number, particularly if the complainant's issue stems from issues of mental health or if the complainant has a significant history of filing numerous false/trivial complaints. Regarding the "missing" data category in Table 3.5, it should be noted that complainants can choose not to provide their demographic information when filing complaints.
  57. The annual distribution of number of complaints per sworn officer may change if cases received during the calendar year are not entered into IAPro until after that calendar year is complete.
  58. The data for this chapter were obtained from the Denver Sheriff Department's Internal Affairs records management database (IAPro). The OIM is not an IAPro administrator and has no control over data entry into the database. The OIM does not conduct governmentally approved audits of the database for accuracy. As a result, the OIM is unable to certify the complete accuracy of the DSD's internal affairs data. Finally, because the OIM is not the final arbiter of what allegations to record in IAPro and against which officers, the OIM cannot certify that the data presented (with respect to specific complaint allegations) is what it would be if the OIM were making these decisions. Since their data were drawn from dynamic, live databases, the recorded complaint, allegation, and outcome numbers will fluctuate over time and are subject to revision. The figures reported in this chapter include only complaints against sworn DSD deputies.

## Endnotes

59. OIM analysts noted significant amounts of missing data in IAPro fields used to report key characteristics of complaints, complainants, and, to a lesser extent, subject deputies within the IAB's IAPro data upon initial extraction. In January 2015, the OIM worked with DSD's IAB, which then populated the data so that it could be used for analysis. IAB made great efforts to fill in the missing data. However, following this exercise, there were still missing data, some of which are noted throughout this chapter. There are some cases in which subject deputy is not recorded because the information is not known by the complainant and/or by IAB. Some of this information may be contained elsewhere, specifically in open-ended narrative summaries that cannot be coded reliably and counted alongside other quantitative data.
60. A number of complaints were excluded from this category that have been included by OIM in recent years; specifically, complaints which indicate that a sworn deputy was somehow involved in a complaint but do not specify the deputy's role, and complaints which do not have subject deputies identified in IAPro.
61. After the DSD filled in a large amount of missing data on complainant types (e.g., inmate, employees, etc) connected to complaints, the OIM identified 75 additional cases within which deputies were not named, or they were identified but not attached in any specific way to the complaint (meaning they might not have been involved as a subject, but rather as a complainant or witness). Upon further examination, we discovered that many of these cases were for minor misconduct that does not generally require full investigations, such as unauthorized leave time, minor lost property complaints from inmates, and failure to complete regular weapons qualifications. These complaints have typically been handled as "reprimands" by DSD IAB in the past, though they are no longer coding them as such. The OIM will work with IAB in 2015 to develop a process for identifying these cases in the IAPro database.
62. Because DSD IAB finalizes each case's allegations during the discipline phase, a late stage in the investigation/review process, allegations in 93 cases opened in 2013, (totaling 134 allegations), were not included in the OIM's 2013 annual report, since allegation data on those cases were not yet available at the time data were extracted for the 2013 report. Therefore, counts and distributions from earlier years may change with each annual report.
63. If the OIM disagrees with a screening decision, the DSD IAB Captain is notified. If the OIM and DSD IAB cannot agree on a screening decision, the OIM will discuss the conflict with the Sheriff and then, if necessary, with the Executive Director of Safety.
64. If a case involves allegations of criminal conduct, the investigation is conducted by the DPD's Internal Affairs Bureau (DPD IAB). The DPD IAB will investigate the case and present it to the District Attorney's Office for a charging decision. If the District Attorney decides to file charges, the case will be retained by DPD IAB until the conclusion of any criminal proceedings. Once the criminal proceedings are concluded, or if the District Attorney decides not to file charges, the case will be turned over to the DSD for completion of the administrative investigation to determine if any internal procedures or policies were violated.
65. The distribution of outcomes reported in earlier years changes slightly with each annual report, since cases closed within a calendar year may not be updated in IAPro by the time the OIM obtains reporting data in January.

66. In this section, “deputy” refers only to those personnel with the title “deputy” at the time of incident. Sworn staff with other titles, such as “captain” or “sergeant”, are noted throughout the summaries.
67. DSD Timeliness figures were calculated by measuring the number of days between the date a case was received and the date a case was completed, and subtracting the total number of days the case was with the OIM for either investigative or disciplinary review. For cases that opened in 2014 but were not yet completed at the time of the analysis, OIM analysts used the date of data extraction (January 7, 2015) as the end date. In January 2014, the DSD created a Conduct Review Office to increase the efficiency of the review process for DSD’s Internal Affairs Cases. To provide an appropriate comparison of case processing times between 2013 and 2014, the OIM subtracted the number of days that 2014 cases were under review by the Conduct Review Office to calculate IAB case processing timeliness, since the Conduct Review Office (which is part of DSD but not IAB) did not exist or participate in the DSD complaint handling process in 2013.
68. The OIM notes that there are slight discrepancies between the count of sworn deputies provided to us for the 2014 report and the counts provided for previous reports (which may be due to attrition of deputies between OIM reporting periods).
69. The OIM reports on deaths that begin or occur while the inmate is in the custody of any DSD jail. When inmates die in custodial facilities at Denver Health, under a doctor’s care (such as cancer deaths occurring in hospice), the OIM has not historically reported on these deaths.

## Endnotes

## **Appendix A**

### **DSD Reform Letter**





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September 10, 2014

The Honorable Paul D. Lopez  
Safety & Wellbeing Committee Chairman  
District Three Council Office  
4200 Morrison Road # 7  
Denver, Colorado 80219

**Re: Critical Issues to be Addressed in the Reform of the Denver Sheriff Department**

Dear Chairman Lopez:

I write this letter in response to your verbal and written requests that the Office of the Independent Monitor (“OIM”) provide the City Council Safety and Wellbeing Committee with “input and findings” into the “possible causes” of the misconduct issues that have recently surfaced in the Denver Sheriff Department (“DSD”), and recommendations to address them. I also write pursuant to my obligations under Denver Municipal Ordinance to “make recommendations regarding policy issues” in the Denver Police Department (“DPD”) and the DSD, and to “address any other issues of concern to the community.”<sup>1</sup>

As you know, the past eight months have been a time of upheaval and transition for the DSD. In its December 2013 Semiannual Report, the OIM discussed its investigation of the inmate grievance process in Denver’s jails, finding four systemic issues that compromised accountability, and making eleven actionable recommendations to address them. In the weeks that followed, the DSD commendably responded by significantly improving the accessibility of the complaint process for inmates. Yet, recent months have brought additional public scrutiny and critique of the DSD in other forums. The news media obtained and broadcast several videos documenting deputies using extremely troubling inappropriate force against inmates, prompting a public outcry. In July 2014, the City of Denver agreed to pay \$3.25 million to settle a high-profile civil rights lawsuit arising from incidents at the Downtown Detention Center (“DDC”). In addition, DSD leadership has been in flux, with Sheriff Gary Wilson stepping down in July, while the Administration has now initiated a national search for Denver’s next Sheriff.

These developments have prompted a collective call for answers from the community, faith leaders, City officials, and the DSD staff itself. Why has this happened? More importantly, are these developments the result of systemic problems in the DSD and, if so, what can be done to fix them? Mayor Michael B. Hancock has announced a series of steps to find answers, make changes and ultimately reform the DSD. This includes creating various taskforces to review DSD policies and procedures, soliciting community feedback, and hiring an independent consultant (“Independent Consultant”) to conduct a “top to bottom” organizational assessment of the DSD and suggest changes.

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<sup>1</sup> See D.R.M.C. Art. XVIII § 2-371(b).

As you know, the OIM provides oversight of the DPD and the DSD through the review of internal investigations, disciplinary proceedings, and policies in those departments. The OIM staff includes former federal and local prosecutors, a criminologist, and a community relations liaison. To provide policy oversight, the OIM analyzes DPD and DSD procedures, examines best practices in jails and police departments around the country, and consults with officers, deputies, community members, inmates, and national experts on policing and corrections.<sup>2</sup> This work, and our independence from the departments that we oversee, provide the OIM with a unique opportunity to identify systemic issues that may foster or contribute to potential patterns of misconduct.

From this vantage point, and in the pages that follow, I identify several areas of DSD organizational policy and practice that I believe have contributed to the misconduct issues discussed above, and that require particular attention in the reform of the DSD.<sup>3</sup> These include: 1) current significant supervisory gaps at the Downtown Detention Center, 2) deficiencies in DSD use of force reports and the use of force database, 3) inadequate retention of video documenting uses of force, 4) problems with the deputy rounds tracker system, and 5) weaknesses in the DSD's early intervention system. This letter also includes suggestions for a deeper examination of two policy areas recently implicated in disciplinary cases involving the use of inappropriate force: the authority granted to DSD deputies as peace officers to stop or arrest individuals, and the role of mental illness in Denver's jails.

In this letter, I do not comment in detail on the four areas that will be reviewed by the Independent Consultant as a condition of the settlement agreement between Jamal Hunter and the City and County of Denver: 1) inmate classification, 2) screening and recruitment of deputies, 3) disciplinary best practices, and 4) best practices related to Internal Affairs, although I agree that they merit examination, and make several limited observations about them below.<sup>4</sup>

Before discussing specifics, I want to make clear that DSD deputies perform a critical public safety function under extremely challenging circumstances, and most do so with talent and commitment to public service. A number of deputies have expressed to me that they are as troubled by the recently-revealed conduct of some of their fellow deputies as is the public itself. The goal of the current reform process must be to fix the systemic deficiencies that have compromised accountability in the DSD, without unfairly impugning the entire DSD staff with the misdeeds of what is only a small percentage of deputies. I look forward to working with the community, the Administration, City Council, the Citizen Oversight Board ("COB"), the DSD Reform Executive Steering Committee, the Independent Consultant, the Sheriff, and the DSD staff on this important effort.

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<sup>2</sup> I thank the following individuals for sharing their time and expertise in our recent examination of jail and prison policies and practices: Professor Joseph Sandoval (Metropolitan State University), Rick Raemisch (Colorado Executive Director of Corrections), Steve Hager (Colorado Director of Prisons), Dr. Thomas W. White (Federal Bureau of Prisons, retired), Donald Leach (American Jail Association, retired), Mike Gennaco (Office of Independent Review), Julie Ruhlin (Office of Independent Review), Dr. Mary West (Colorado Department of Corrections, retired), and Rick Lichten (Los Angeles Sheriff Department, retired). The views expressed in this letter are those of the OIM, not the individuals with whom we have consulted.

<sup>3</sup> Your requests sought OIM recommendations related to policy or ordinance. While this letter focuses on policy rather than ordinance change, the Citizen Oversight Board is sending you a letter dated September 10, 2014, in which one important ordinance change is proposed.

<sup>4</sup> See Jamal Hunter v. City and County of Denver, 12-CV-02682-JLK (D. Colo.).



## **I. Supervisory Gaps at the Downtown Detention Center**

Effective and frequent supervision of deputies by sergeants is one of the core principles of good jail management, and is necessary to ensure effective jail operations, to promote accountability, and to deter deputy misconduct. In many direct supervision jails (like our jails in Denver), most deputies are stationed alone inside inmate housing areas, frequently for long periods of time, and deputy isolation can become problematic.<sup>5</sup> Contact between sergeants and deputies is one of the primary ways that a jail is able to set, convey and reinforce its performance expectations to deputies.<sup>6</sup> In addition, because of their opportunities for frequent interaction with deputies, sergeants are uniquely positioned to identify deputies who are engaging in misconduct, and to take corrective action.<sup>7</sup> To be effective at deterring misconduct and addressing deputy misbehavior, sergeants must frequently visit and be highly visible in inmate housing areas.<sup>8</sup>

National correctional organizations emphasize the importance of frequent supervision. According to the National Institute of Corrections:

### **Frequent Supervision by Management**

[Jail] management must take an active role in ensuring that staff are successful in supervising inmates. Supervisors and administrators must maintain a high profile on [inmate housing] units to assure that staff are performing their duties correctly and according to established policy.<sup>9</sup>

The importance of frequent supervision to successful jail operations has been echoed in other jail practice guides.<sup>10</sup> Frequent supervision of deputies is “essential to the supervisor’s knowledge of what is taking place throughout the jail, managing the shift, assessing staff performance, and providing coaching and support to individual staff.”<sup>11</sup> Indeed, the National Institute of Corrections has noted that “[w]ithout effective supervision, staff may begin to perform their duties in a way that is contrary to [principles of good jail management]—unbeknownst to either the supervisors or the administrator.”<sup>12</sup>

Frequent supervision is also critical to deterring deputy misconduct, and identifying problematic deputy behavior before it escalates into serious impropriety.<sup>13</sup> As one analysis of patterns of jail misconduct noted, “a well-qualified deputy may fail if given poor support, training and supervision.”<sup>14</sup> Effective and frequent supervision of deputies also helps to shield a city from the risk of potential civil rights lawsuits filed by inmates.<sup>15</sup>

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<sup>5</sup> Nat’l Inst. of Corrections, Direct Supervision Jails, the Role of the Administrator at 37.

<sup>6</sup> Id. at 23.

<sup>7</sup> See, e.g., Id. at 23; Police Executive Research Forum, Supervision and Intervention Within Early Intervention Systems at 9.

<sup>8</sup> See, e.g., Nat’l Inst. of Corrections, Direct Supervision Jails, the Role of the Administrator at 57.

<sup>9</sup> Id. at 57.

<sup>10</sup> See, e.g., Nat’l Inst. of Corrections, Sheriff’s Guide to Effective Jail Operations, 31 (“It is incumbent on the jail administration to provide active, ongoing supervision to staff to ensure that the knowledge and skills developed in training are used in the jail and to ensure that staff are following the jail’s policies and procedures.”).

<sup>11</sup> Nat’l Inst. of Corrections, Direct Supervision Jails, the Role of the Administrator at 39.

<sup>12</sup> Id. at 23.

<sup>13</sup> See, e.g., Police Executive Research Forum, Supervision and Intervention Within Early Intervention Systems at 9.

<sup>14</sup> Report of the Los Angeles Citizens’ Commission on Jail Violence at 123.

<sup>15</sup> Gerard J. Horgan, The Main Areas of Inmate Litigation in the 21<sup>st</sup> Century (“Strong supervision of deputies and frequent visits by supervisors to oversee the officers under their command is an important tool for reducing a jail’s exposure to costly litigation”).

## The Role of Sergeants at the DDC

Sergeants are the front-line supervisors in the DSD, and many of their official duties involve supervising deputies.<sup>16</sup> Specifically, DSD sergeants are required to:

“monitor[], guide[], correct[] employee performance, instruct[] and resolve[] problems encountered in new or unusual assignments . . . review[] and evaluate[] work performed by deputy sheriffs for effectiveness, resolve[] problems associated with security [and] . . . conduct[] briefings and staff meetings.”<sup>17</sup>

Despite this official policy, a number of supervisors and deputies have stated that DDC sergeants are often absent from the inmate housing pods for entire shifts, and sometimes multiple shifts at a time.<sup>18</sup> Instead, many DDC sergeants spend the bulk of their shifts completing paperwork and managing each jail floor’s staffing roster, instead of supervising deputies. For example:

- *One sergeant told the OIM that official policy requires sergeants to circulate to all inmate housing areas under their command at least once every shift to supervise the deputies staffing those units. Yet, this sergeant also reported that on some shifts, approximately 90% of his time is spent on “filling rosters,” rather than supervising deputies. According to this sergeant, the DSD is currently having difficulty filling shifts, and the sergeant must spend most of his work day calling off-duty officers to try to get them to cover overtime shifts for other officers who are sick or on vacation (i.e., “filling the roster”). This sergeant also indicated that when he was promoted to sergeant, he was given only a short training course, but was otherwise basically “expected to know the job already.” He did not feel that he was adequately trained to be a supervisor in Denver’s jails.*
- *A captain reported that, at present, the sergeants under his command generally spend 80%-90% of their time “filling rosters.” Instead of being on the floor supervising deputies, his sergeants are “stuck” in an office making phone calls and doing paperwork. He described this as a “significant” problem in the DDC, noting that one of his sergeants has begun taking the roster home in order to make phone calls to deputies in the evenings and weekends, so that he can attempt to supervise deputies during the work day.*
- *Another sergeant reported that he often spends 70%-90% of his shifts filling the roster and completing other routine paperwork. He is concerned that he has little time to supervise or interact with the deputies under his command.*

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<sup>16</sup> See DSD Employee Manual at 22 (May 2014).

<sup>17</sup> DSD Sergeants also have administrative responsibilities that include “establish[ing] priorities and assign[ing] work activities, [and] preparing written work schedules.” *Id.* Preparing written work schedules and finding officers to work each shift is colloquially known as “doing” or “filling” “the roster.”

<sup>18</sup> In 2014, the OIM began a review of disciplinary cases involving deputies failing to perform rounds through inmate housing areas. In the course of this review, OIM staff interviewed deputies, supervisors and commanders in Denver’s jails to examine the mechanisms by which the DSD ensures that rounds are conducted. Interviewees were chosen by DSD supervisors on duty, and represent a small percentage of the deputies working in Denver’s jails, rather than a broad survey of the entire DSD staff.

These sergeants, and others, expressed frustration with these limitations, noting that they would be actively supervising deputies if not for the burden of managing the shift roster and completing associated paperwork.<sup>19</sup> DDC deputies with whom we spoke corroborated that supervision is often absent in the DDC, and that they largely spend their time alone in the housing pods, with little interaction with their assigned sergeants. For example:

- *One veteran DDC deputy reported that the DSD's "biggest problem" is a lack of first-line supervision. A sergeant visits his pod probably once every other shift, and usually "pops in" for thirty seconds, then leaves. He indicated that in nearly a decade as a deputy, he can only think of one instance in which he got either positive or negative feedback from a sergeant (other than in his annual personnel evaluation). The deputy indicated that he believes that the lack of supervision is not unique to his housing area or sergeant. He is routinely asked to relieve deputies in other pods. On more than a few occasions, he has found the pods to be in disarray, with inmates having hung sheets and towels up that obstruct the view from the deputy's desk, in violation of policy. He noted that when deputies are not keeping order in the pods, sergeants should be addressing it immediately. He also noted that in his opinion, many sergeants appear to be "afraid to make waves" with deputies, and instead many of them try to make friends with the deputies under their command.*
- *Another veteran DDC deputy stated that he is visited briefly by his assigned sergeant on approximately every other shift. He noted that some sergeants are "old school" and spend more time being hands-on with deputies. He said that once a new deputy graduates from the Training Academy, the deputy is assigned to shadow an experienced FTO (Field Training Officer) for a number of weeks. After that time, the new deputy is assigned to a housing area and from then on, "no one supervises" the deputy, who is on his or her own in a housing pod.*
- *Another DDC deputy reported that a captain usually stops into his pod briefly once or twice a month. He stated that the amount of interaction between deputies and sergeants depends on the sergeant. With some sergeants, the only time a deputy will see them is when the deputy is walking by the sergeant's office, he said. Other sergeants may stop into the housing area every other shift or so. This deputy also noted that after a new officer has completed the FTO program, they are "kind of on their own" in the inmate housing areas.*

These supervisory gaps at the DDC, and the perception by deputies that they are not being supervised, reduce mentoring of deputies, diminish opportunities for the early identification of deputy performance problems, and create conditions that could foster misconduct. Indeed, other jurisdictions across the United States that have wrestled with patterns of deputy misconduct and inappropriate use of force in jails have found inadequate supervision to be a key element of the problem. For example, in Los Angeles, deficient or absent supervision was identified as key to having fostered a jail culture that permitted deputy misconduct to flourish.<sup>20</sup>

I believe that the current staffing model and work allocation that has many DDC sergeants prioritizing paperwork over actively supervising deputies should be changed. The National Institute of Corrections has noted that tasks that distract jail "supervisors from [their] essential duties should be reviewed to

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<sup>19</sup> I understand that the City of Denver's Peak Performance Team is currently examining issues related to DSD staffing and workload.

<sup>20</sup> See generally, Report of the Los Angeles Citizens' Commission on Jail Violence.

determine if they are necessary, if they can be performed overnight while the inmates are sleeping, if they can be performed by staff other than the housing officers and supervisors, or if they can be performed in a different way that decreases the time required.”<sup>21</sup> I suggest that the DSD heed this advice, and I make four specific recommendations in this area:

1. The OIM recommends that the current work assigned to DSD sergeants be reviewed to identify and implement strategies to free sergeants from the administrative burdens that hinder their frequent and engaged supervision of deputies, including but not limited to the preparation and management of the daily shift roster, a task that may be better handled by administrative staff instead of sergeants;
2. The OIM recommends that there be an assessment of whether there are other causes of the supervisory gaps discussed above. This should include a systematic staffing assessment to examine the overall jail staffing and supervision model, the number of deputies supervised by each sergeant (their “span of control”) and the number of staff available to cover each shift at the DDC;
3. The OIM recommends that the DSD review and enhance the training provided to new sergeants to ensure that it thoroughly prepares them to supervise deputies, and make available additional resources that will enable sergeants to be more effective at providing supervision; and
4. The OIM recommends that the DSD evaluate the training provided to deputies, including but not limited to Academy Training and the training provided by Field Training Officers, to ensure that it adequately prepares deputies for the work of supervising inmates.

## **II. Deficiencies in Use of Force Reports and the Use of Force Database**

Thoroughly investigating uses of force and making reliable determinations about whether they complied with law and policy is essential to creating a culture of accountability in a jail. National standards for law enforcement departments emphasize the importance of accurate and complete reporting on uses of force, which enables the identification of trends and patterns that may call for action by supervisors.<sup>22</sup> I believe that the DSD framework for reporting and tracking uses of force has significant flaws that compromise the investigation and review of uses of force in Denver’s jails at present.

DSD policy requires deputies to prepare written reports documenting all physical force that they use or witness, ranging from “hands on” physical force to lethal force.<sup>23</sup> The policy requires that these reports (“use of force reports” or “OIC Reports”) must contain: “a detailed chronological description of the incident to include who, what, where, when, how, why (if possible), any injuries and medical treatment provided.”<sup>24</sup> They must also “be accurate and limited to factual events free from opinion or prejudice and detail all of the necessary information to provide a complete depiction of the incident, to include actions both taken and observed.”<sup>25</sup>

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<sup>21</sup> Nat’l Inst. of Corrections, Direct Supervision Jails, the Role of the Administrator at 24.

<sup>22</sup> *See generally*, Letter from U.S. Attorney Preet Bharara to Mayor Bill DeBlasio, CRIPA Investigation of the New York City Department of Correction Jails on Riker’s Island (August 4, 2014).

<sup>23</sup> *See* DSD Department Order 5011.1M(7).

<sup>24</sup> DSD Department Order 1115.1A (5)(C).

<sup>25</sup> DSD Department Order 1115.1A (5)(C).

After deputies complete use of force reports, the reports are entered into the DSD's electronic Jail Management System ("JMS"). In addition to a narrative description of the use of force, the following information must also be included in JMS about each incident: incident type, the jail where it occurred, the location of occurrence inside the jail, the names of the involved deputies and inmates, and the level of force and equipment used during the incident.<sup>26</sup> DSD supervisors are required to review all use of force reports to determine whether the uses of force that they document complied with DSD policy and state law.<sup>27</sup> Specifically, supervisors are required to "review the use of force report[s] and indicate in writing whether DSD policies and Colorado Revised Statutes . . . have been followed and the force used was appropriate."<sup>28</sup>

Despite these requirements, the OIM has observed that the information often recorded in DSD use of force reports is sparse, with little of the necessary detail required to reliably assess the propriety of the force used. Indeed, many deputy use of force reports that have been reviewed by the OIM, even on serious uses of force resulting in injury, are a paragraph or two long, contain vague descriptions of the incident, and draw conclusions without sufficient supporting evidence. For example, use of force reports sometimes assert that an inmate was "resisting," or state a conclusion about an inmate's level of resistance (e.g., "active aggression") without articulating the inmate's specific actions. The conclusory nature of this kind of narrative description, without sufficient detail, may in many instances prevent even diligent supervisors from conducting meaningful assessments of whether the force used was appropriate or not. This observation is borne out by several recent disciplinary cases in which the responding supervisors judged serious uses of force to be appropriate, but later Internal Affairs investigations and disciplinary review determined that the force was inappropriate and merited serious disciplinary action for the involved deputies.

Even if DSD use of force report narratives were more comprehensive, DSD policy is still inadequate in that it permits sergeants to make a determination about the propriety of the force used by merely "review[ing] the use of force report and indicat[ing] in writing whether DSD policies" and state law were followed.<sup>29</sup> The policy does not require supervisors to speak with the involved inmate(s), or witness inmate(s) before making their assessment about the lawfulness of the force, nor does the policy require supervisors to review medical records, video footage, or any other evidence. In some cases that the OIM has reviewed, DSD supervisors have gone beyond relying on the report narrative alone, and have conducted more comprehensive evaluations of the available evidence. But doing a comprehensive review of the evidence on uses of force should not be a matter of discretion; it should be a requirement.<sup>30</sup>

Similarly, capturing narrative descriptions in use of force reports while recording only minimal quantifiable use of force information inhibits meaningful analysis of patterns and trends in uses of force in Denver's jails. Many law enforcement agencies require officers to record a wide variety of variables

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<sup>26</sup> See DSD Department Order 1115.1A.

<sup>27</sup> See DSD Department Order 5011.1M(7)(A)(1); Colorado law requires law enforcement officers to report uses of excessive force to their immediate supervisor (CRS §18-8-802).

<sup>28</sup> See DSD Department Order 5011.1M(7)(A)(1).

<sup>29</sup> See DSD Department Order 5011.1M(7)(A)(1).

<sup>30</sup> See, e.g., DPD Operations Manual § 105.02(1)(c)(requiring supervisors responding to a use of force to "personally contact the officer immediately after the incident. The supervisor will interview witnesses and suspects, collect evidence and take photographs when appropriate. The supervisor will assist in preparing the Use of Force/Injury Report, paying particular attention to the facts of the incident."). I believe that this is a sound policy, as it enables a more comprehensive review by the responding supervisor, as well as later evaluation by Internal Affairs, command staff, and the OIM.

about uses of force in order to make a use of force database more readily searchable. The DPD, for example, tracks specific information about the level of resistance, the apparent role of mental illness or intoxicants in the incident, any weapons used, specific description of type of force, the manner in which the force was used, the nature of the call that prompted the force, and the identities of all involved officers and supervisors.<sup>31</sup> The relative depth of this searchable data permits the identification of particular shifts, areas, officers, supervisors, or kinds of calls that result in the use of force, which enables proactive action to address any concerning trends.

In addition, a number of law enforcement departments, including the DPD, send completed use of force packets to their Internal Affairs Bureaus for review after the responding supervisor has made his/her determination about whether the force was appropriate or not. This enables the Internal Affairs Bureaus in those departments to determine whether each use of force requires a more comprehensive investigation than the one conducted by the responding supervisor—a sound policy. While such a system would not be feasible under the current structure and level of staffing of the DSD Internal Affairs Bureau, once changes are made to DSD Internal Affairs, I believe that the DSD should evaluate whether they could emulate those other departments in this respect. Therefore:

5. The OIM recommends that the DSD revise its use of force reporting standards to require deputies and supervisors to submit comprehensive narrative descriptions of the circumstances surrounding any use of force, including specific detail about the particular actions of the involved deputies and inmates, rather than conclusory assertions;
6. The OIM recommends that DSD revise its use of force reporting framework to capture more specific variables about uses of force that can be quantified in order to enable more robust pattern and trend analysis of uses of force inside Denver's jails;
7. The OIM recommends that the DSD revise its policy to require supervisors responding to any use of force to interview involved deputies and inmates, and deputy and inmate witnesses, on video, and to collect and review other available evidence prior to making a determination about the propriety or lawfulness of any use of force;
8. The OIM recommends that the DSD evaluate the feasibility of sending all use of force packets (which include deputy use of force reports, any evidence gathered by the responding supervisor, and the responding supervisor's cover sheet) to the DSD Internal Affairs Bureau for an evaluation of whether a more comprehensive investigation should be conducted of the use of force than the one conducted by the responding supervisor; and
9. The OIM recommends that the DSD provide comprehensive training to all DSD deputies and supervisors about the new use of force standards outlined above.

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<sup>31</sup> See DPD Use of Force Reports.

### **III. Retention Period for Use of Force Video Should be Enlarged**

Each year, inmates file complaints of inappropriate force with the OIM or DSD Internal Affairs. In many of the resulting Internal Affairs investigations, the involved deputies and inmates describe the incidents very differently. Without video footage to resolve these discrepancies, it can be difficult to prove or disprove whether the force used was appropriate or not.

Video from the cameras inside Denver's jails is generally retained for a period of thirty days and then erased, unless a supervisor specifically decides to preserve that footage.<sup>32</sup> For various reasons, including a fear of potential retaliation, inmates often wait until after their release from custody before filing complaints alleging inappropriate force. Because there is currently no requirement that video of all uses of force be preserved beyond thirty days, video is sometimes deleted by the time the inmate actually files his/her complaint. In at least one case recently reviewed by the OIM, this compromised the investigation of a serious alleged use of inappropriate force that an inmate complained of after his release.<sup>33</sup> To prevent this from recurring:

10. The OIM recommends that DSD revise its policy to require that all available video footage of all uses of force be automatically preserved indefinitely; and
11. The OIM recommends that an assessment be conducted of the estimated costs for lengthening the retention period for all footage from cameras in DSD jails to a period that is longer than 30 days.

### **IV. Deputy Rounds Tracker System can be Improved**

Inmate and community safety are integral to the core mission of the DSD.<sup>34</sup> The DSD has implemented many policies to promote inmate safety, perhaps none more important than the policy requiring deputies to routinely perform "rounds" through inmate housing areas. Doing rounds involves deputies walking through inmate pods at regular (but unpredictable) intervals and looking inside all cells to make sure that there are no safety issues or emergencies.<sup>35</sup> When supervising inmates in the general population, DSD

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<sup>32</sup> One of the reasons commonly cited for a short video retention period is that storing video for a lengthy period of time can become cost prohibitive.

<sup>33</sup> In 2014, an inmate complained about two incidents involving the alleged use of inappropriate force by deputies in the DDC Intake Area. The inmate complained that both of his wrists were fractured, which was corroborated by his medical records. Evidence obtained during the investigation suggested that the inmate's wrists may have been broken before he interacted with the deputies. In both incidents, DSD deputies completed incident reports stating that minor force had been used against the inmate. The inmate ultimately filed his complaint after his release from jail, and because more than thirty days had elapsed, no video was preserved to prove or disprove his claims.

<sup>34</sup> The DSD defines its mission as providing "safety and security for the community by ensuring care, custody, transportation and reentry services for detainees by operating safe, secure, efficient and humane facilities that adhere to federal, state, and local laws." See Denver Sheriff Department 2013 Annual Report at 4.

<sup>35</sup> DSD policy imposes various requirements on deputies performing rounds, including checking all doors, the condition of cells and housing areas, and looking for any potential safety hazards. DDC Procedures Manual § 802.00 ("A round is a visual and physical inspection by an officer of their assigned area which includes, but is not limited to focusing on unusual occurrences, security issues, welfare of inmates, staff, and the public."). DSD policy also instructs deputies doing rounds to "be especially alert to the health and wellbeing of all prisoners and the security of the area." See Downtown Division Procedures § 2004.00.

deputies are required to do rounds once every thirty minutes,<sup>36</sup> while more frequent rounds are required of high risk inmates, such as inmates on suicide watch or in special management populations.

Proper performance of rounds is critical to ensuring inmate welfare, deputy safety, and jail security, and rounds are required in prisons and jails throughout the United States. Rounds have been identified as key to correctional suicide prevention,<sup>37</sup> as well as to reducing the risk of sexual abuse and assault in prisons and jails.<sup>38</sup> Rounds can also help to minimize a city's exposure to potential liability where inmates are harmed and later sue.

The DSD has taken a number of steps towards ensuring that deputies consistently do their rounds, including imposing strong disciplinary penalties on deputies who fail to perform rounds.<sup>39</sup> The DSD has also trained deputies on the importance of rounds, and has installed "rounds tracker" technologies (described below) to automate the tracking of deputy rounds.<sup>40</sup> Notwithstanding these steps, in 2014, several disciplinary cases were handled that involved deputies failing to do rounds at the DDC. For example:

- *A deputy failed to conduct multiple rounds through his inmate housing area during a several hour period. At the end of this period, an inmate was found attempting suicide by hanging himself from his cell bunk bed. The inmate's cellmate found him and informed the deputy, who failed to take timely action to cut the inmate down. The inmate was ultimately cut down by a sergeant, and then revived. The deputy was terminated for failing to do rounds, and neglect of other duties.*
- *An inmate accused a deputy of bringing alcohol, marijuana, and crack cocaine into the jail, and allowing inmates to fight. An internal investigation did not substantiate these allegations. However, video footage demonstrated that the deputy repeatedly failed to perform rounds in the inmate housing area over a several hour period. The deputy also left the lights off in violation of policy, and allowed inmates to watch music videos on a DSD computer. The deputy admitted to each of these violations, and also admitted to routinely choosing not to use the rounds tracker provided by the DSD. The deputy further indicated a belief that deputies were allowed to "run our pod[s] any way we want." The deputy was terminated for this misconduct.*
- *A deputy repeatedly failed to conduct rounds during a shift and logged false or misleading information indicating that those rounds were completed. Video revealed that instead of conducting rounds, the deputy used an unauthorized cell phone and read a newspaper. During this period of inattention, an inmate had a medical emergency, and was later transported to Denver Health Medical Center. The deputy also brought a large unauthorized knife into the inmate housing area, and used it to cut food during the shift supervising inmates. The deputy also permitted lights to remain off in the housing pod, in violation of policy. The deputy was facing*

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<sup>36</sup> See Downtown Division Procedures § 2004.00.

<sup>37</sup> See generally U.S. Dept. of Justice, Letter Regarding Mental Health and Suicide Prevention at Los Angeles County Jails (June 4, 2014).

<sup>38</sup> See U.S. Dept. of Justice, Findings Letter Regarding Investigation of Jail Annex, Oklahoma City, OK (July 31, 2008) at 3-5.

<sup>39</sup> See generally DSD Discipline Handbook, Appendix E.

<sup>40</sup> I generally support the use of this technology, however, note that "[t]echnologies are not replacements for skilled and committed security officers . . ." See National Prison Rape Commission Report at 6. See also Urban Institute Justice Policy Center, Preventing Violence and Sexual Assault in Jails: A Situational Crime Prevention Approach.



*three disciplinary cases related to three separate misconduct investigations, and ultimately resigned.*

These cases were not minor deviations from policy, but rather reflected blatant neglect of duty, and are not typical of the performance of DSD deputies in general. These deputies were appropriately held accountable by the Office of the Executive Director of Safety. Yet, in addition to addressing the individual acts of misconduct, the cases raise concerns about why these deputies felt free to so flagrantly neglect one of their core duties without fear of discovery. The supervisory gaps discussed above are one likely cause. Another is problems with the DDC rounds tracker system.

The DDC rounds tracker system automates the tracking of deputy rounds by requiring deputies to scan bar codes that are affixed to various locations throughout an inmate housing pod with an electronic device when they are conducting a round. The time and location of each one of these scans is then transmitted to an electronic tracking system, where it can be reviewed to ensure that deputies were actually walking through the inmate housing areas at the required intervals.<sup>41</sup>

The rounds tracker system does not measure whether or not the rounds were comprehensive and actually involved checking on inmates, merely whether or not deputies actually walked through their assigned inmate housing areas at the appointed times. Yet, to be effective at achieving this goal, the system must provide jail supervisors and administrators with easily accessible information about whether any deputies have failed to perform required rounds, and when. This could take the form of a regularly generated missed rounds report, or an alert to supervisors when a deputy under their command has missed rounds. Unfortunately, the OIM has been told that the DDC rounds tracker system does not currently have this functionality. Instead, supervisors who wish to check the rounds tracker system for compliance must engage in a laborious and time-consuming process of looking at individual inmate housing areas, individual shifts and deputies one-by-one. This inefficiency compromises the effectiveness of the rounds tracker technology now in use at the DDC.

In addition, some sergeants have also relayed that checking on deputy rounds in the rounds tracker system is largely considered to be a captain's responsibility, and that many sergeants do not generally check the rounds tracker system for rounds compliance. As sergeants are supposed to be providing front-line supervision of deputies, sergeants should play a significant role in verifying deputy compliance with the rounds requirement. Therefore:

12. The OIM recommends that the DSD determine whether the DDC rounds tracker software system now in place can be altered to enable routine reporting of missed rounds, such as the generation of a missed rounds report at regular intervals, and if not, explore whether a different rounds tracker system that has such functionality can be acquired; and
13. The OIM recommends that sergeants be given greater responsibility and accountability for monitoring whether the deputies under their supervision are performing rounds.

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<sup>41</sup> Some research suggests that rounds tracker technologies may be effective at decreasing inmate and staff misconduct, and may decrease inmates' perceptions of threats of physical violence and the likelihood and ease of acquiring contraband. See, e.g., Nancy G. LaVigne et al, Evaluation of a Situational Crime Prevention Approach in Three Jails: The Jail Sexual Assault Prevention Project, (2011).

## **V. Early Intervention System can be Strengthened**

Cities are increasingly recognizing the importance of early intervention systems for enhancing accountability in law enforcement departments.<sup>42</sup> Early intervention systems electronically track information about deputy performance, including complaints, uses of force, and other variables, to help identify problematic behavior early in a deputy's career. When such behavior is identified, interventions such as additional training, mentoring, or reassignment may be implemented. Early intervention systems are widely considered to be a best practice in law enforcement, and evidence suggests that such systems may increase deputy accountability and strengthen relationships between supervisors and the staff they oversee.<sup>43</sup> In addition, research has found that the use of such systems has a direct impact on deputy behavior, and may reduce complaints and uses of force over time.<sup>44</sup>

Model early intervention systems typically track an exhaustive set of performance indicators, including internal and citizen complaints, uses of force, civil suits, performance evaluations, failure to fulfill training requirements, and use/misuse of sick leave, among others.<sup>45</sup> When a deputy exceeds the threshold on a particular indicator, an evaluation is conducted to determine whether that employee requires intervention and if so, what steps would be most likely to help the deputy meet performance standards in the future.

The DSD recently began implementing a version of an early intervention system, which it has called the Employee Progression and Recognition Tracking System ("EPARTS"). EPARTS is a non-disciplinary program designed to help supervisors identify patterns of potentially problematic behavior and provide appropriate interventions (and to identify employees who are performing exceptionally well).<sup>46</sup> Under DSD policy, deputies will be flagged for EPARTS review and possible intervention (or commendation) when they exceed thresholds on three variables: use of force (three or more within a quarter), response to a duty-related death (one), and awards or commendations (one). I commend the DSD for moving to adopt an early intervention system. Yet, the current EPARTS framework excludes several performance indicators that are very important for ascertaining the risk of potential deputy misconduct. In particular, early intervention systems customarily track civilian/inmate complaints, and civil lawsuits that allege deputy misconduct, as both are strong indicators of potential misconduct risk. I believe that the exclusion of these variables from EPARTS compromises its effectiveness as an early intervention system for the DSD. Therefore:

14. The OIM recommends that additional performance indicators be added to EPARTS, including but not limited to inmate complaints and grievances, as well as civil lawsuits alleging deputy misconduct, and that the DSD consult with experts and/or peer agencies to determine whether other performance indicators should be tracked in EPARTS.

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<sup>42</sup> U.S. Dept. of Justice Office of Community Oriented Policing Services, Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide at 53.

<sup>43</sup> U.S. Dept. of Justice, Principles for Promoting Police Integrity at 10 ; U.S. Dept. of Justice Office of Community Oriented Policing Services, Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide at 54; The Commission on Accreditation for Law Enforcement Agencies (CALEA), Standards for Law Enforcement Agencies, Standard 35.1.15.

<sup>44</sup> Nat'l Inst. of Justice, Early Warning Systems: Responding to the Problem Police Officer at 3.

<sup>45</sup> U.S. Dept. of Justice Office of Community Oriented Policing Services, Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide at 27.

<sup>46</sup> See DSD Department Order 2505.1A

## **VI. Deputy Peace Officer Authority Requires Reexamination**

The DSD has a range of important public safety responsibilities, including running Denver's jails, securing its courts, serving civil process, and managing the City's vehicle impound facility. To carry out these responsibilities, DSD deputies are non-POST certified peace officers under the laws of the State of Colorado.<sup>47</sup> While DSD deputies are not patrol officers and do not police Denver's streets, Denver's Office of the Executive Director of Safety has authorized DSD deputies to exercise peace officer authority to stop or arrest suspects under certain limited circumstances. This includes rendering aid to DPD officers, and in situations involving exigent circumstances (such as when a criminal offense has been committed that involves a substantial risk of death or serious bodily injury and immediate action is necessary to stop or apprehend the person responsible).<sup>48</sup>

Many DSD deputies may understand the scope of their limited authority to stop or arrest suspects. Yet, I believe that the 20-page policy that grants them this authority, which is infused with legalese, is confusing and requires reexamination.<sup>49</sup> In addition, several disciplinary cases have recently been handled that involved DSD deputies exercising quasi-police powers to improperly stop or arrest suspects. This includes a deputy who stopped a vehicle and eventually fired at its driver when the deputy felt threatened, and a deputy who approached a vehicle at gunpoint in a convenience store parking lot when he erroneously believed that its driver had an unauthorized firearm or was about to commit a crime. These cases emphasize the need for further examination of this policy, including determining the circumstances, if any, under which DSD deputies should have the authority to stop or arrest suspects, clarifying and simplifying the policy, and providing additional training to deputies on the scope of their authority under the policy. Therefore:

15. The OIM recommends that the DSD reexamine Department Order 2001.11 ("Exercise of Authority as a Peace Officer to Stop or Arrest Suspects") in order to: 1) determine the circumstances, if any, under which DSD deputies should have the authority to stop or arrest suspects; 2) clarify and simplify the policy; and 3) provide additional training to deputies on the scope of their authority under the policy.

## **VII. The Role of Mental Illness in Denver's Jails Requires Examination**

Over the past half-century, the United States has experienced significant changes to its infrastructure for treating those suffering from mental illness. In 1959, almost 559,000 mentally ill patients were housed in state mental hospitals.<sup>50</sup> By the late 1990s, a shift to "deinstitutionalize" mentally ill persons had dropped the number of persons housed in public psychiatric hospitals to approximately 70,000.<sup>51</sup> Many of those "deinstitutionalized" persons now live in the community and routinely come into contact with the criminal justice system.<sup>52</sup>

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<sup>47</sup> See C.R.S. § 16-2.5-103.

<sup>48</sup> See DSD Department Order 2000.11.

<sup>49</sup> As one example of the need for a comprehensive review, this policy authorized "bias based profiling" by DSD deputies "when authorized by the Sheriff or Executive Director of Safety for safety of staff and the public" until May 2014 when the OIM raised a written objection to this provision. Bias based profiling, which is generally unconstitutional, has now been removed from a more recent iteration of the policy.

<sup>50</sup> See Nat'l Inst. of Corrections, Mentally Ill Persons in Corrections (available at <http://nicic.gov/mentalillness>).

<sup>51</sup> Id.

<sup>52</sup> See generally The Office of the Independent Monitor's 2013 Annual Report (noting that over half of the officer-involved shootings in Denver in 2013 involved persons who appeared to be in mental health crisis at the time of their police contact).

Estimates of the percentage of municipal jail inmates who have mental illness vary. Some research suggests that approximately 1 in 7 male jail inmates and 1 in 3 female jail inmates have a serious mental illness (or 17% overall), a rate 6 times higher than for the general population.<sup>53</sup> In addition, inmates with mental illnesses are likely to stay in jail for twice as long as inmates with no mental health issues but similar charges and risk of re-arrest.<sup>54</sup> DSD staff have anecdotally reported that a relatively high percentage of inmates in Denver's jails suffer from, and are being treated for, mental illness.

A number of DSD deputies have received Crisis Intervention Training ("CIT"), which can be an important tool for learning how to successfully deal with persons with mental illness, who may not always be able to understand and properly respond to law enforcement commands, and may put deputies at greater safety risk.<sup>55</sup> Yet, several recent inappropriate force disciplinary cases involved inmates who either reported hallucinations, or were obviously in the midst of a mental health crisis at the time that inappropriate force was used against them. As the City undertakes its top-to-bottom review, one area of examination should be how to successfully manage and care for the high number of inmates with mental illness who are in Denver's jails, with a specific focus on training deputies and sergeants on issues around use of force with mentally ill inmates, in addition to other issues that are critical with this population. Therefore:

16. The OIM recommends that the DSD examine the current management and treatment of mentally ill inmates, the training provided to deputies and sergeants on mental illness, particularly related to the use of force, and other issues associated with having a relatively high percentage of persons with mental illness detained in Denver's jails.

#### **VIII. Changes Must be Made to the Internal Affairs Bureau and the Disciplinary Matrix**

An effective Internal Affairs Bureau with sufficient investigative resources is a key element of accountability in any law enforcement department.<sup>56</sup> For several years, the OIM has registered its concern that it has taken too long for investigations into alleged deputy misconduct to be completed.<sup>57</sup> As has recently been reported in the print media, the caseload and backlog in DSD Internal Affairs is growing, which is cause for additional concern.<sup>58</sup> The lengthy timeline for investigating and resolving jail misconduct complaints at present is unacceptable for accused deputies, for the public, and for the investigators in DSD Internal Affairs who are working hard under challenging conditions. The OIM staff looks forward to working with the Administration and the Independent Consultant on a long-term solution to this problem, which will likely involve dedicating additional resources to DSD Internal Affairs, taking steps to restructure the unit, and making significant investments in investigator training.

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<sup>53</sup> Steadman, H.J., Osher, F.C., et al., Prevalence of Serious Mental Illness Among Jail Inmates, Psychiatric Services, November 2007; 58: 1472-1478, (2009).

<sup>54</sup> Council of State Governments Justice Center, Improving Outcomes for People with Mental Illness Involved in New York City's Criminal Court and Corrections System, 2013.

<sup>55</sup> Center for Problem Oriented Policing, The Problem of People With Mental Illness (2006).

<sup>56</sup> See, e.g., U.S. Dept. of Justice, Principles for Promoting Police Integrity ("Misconduct investigations should be thorough and impartial, and conducted in a reasonable, timely and consistent manner.").

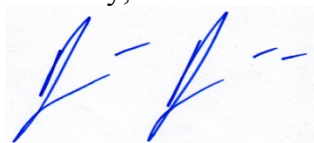
<sup>57</sup> See, e.g., The Office of the Independent Monitor's 2012 Annual Report at 64 (noting that the expanding timelines for conducting internal affairs investigations "may prevent [the] department from acting quickly to correct or deter deputy misconduct, may lower morale, and tend[] to undermine public and department trust in the complaint process.").

<sup>58</sup> See [http://www.denverpost.com/news/ci\\_26223276/denver-jail-inmate-internal-affairs-probes-swell-by](http://www.denverpost.com/news/ci_26223276/denver-jail-inmate-internal-affairs-probes-swell-by)

In addition, because providing a safe and secure environment for inmates is part of the core mission of the DSD,<sup>59</sup> disciplinary penalties for inappropriate force must be strong enough to deter potential misconduct, while also being fair to deputies. I believe that the DSD Disciplinary Matrix provisions on inappropriate force need to be restructured to ensure that they achieve both goals. I understand that the DSD's Discipline Taskforce is planning to recommend significant and necessary revisions to the disciplinary penalties associated with the use of inappropriate force, and I look forward to seeing these changes enacted.

Thank you for the opportunity to share my thoughts and views with you. This letter is not an exhaustive list of all "possible causes" of the recent misconduct issues in the DSD, but it does include a number of significant recommendations that I believe are critical to the reform of the DSD. If I can be of further assistance to you, other members of the City Council, or to the Safety & Wellbeing Committee, please let me know.

Sincerely,



**Nicholas E. Mitchell**  
**Independent Monitor**

cc: Michael B. Hancock, Mayor  
Christopher Herndon, City Council President  
Dennis J. Gallagher, Auditor  
Denver City Council members  
Stephanie Y. O'Malley, Executive Director of Safety  
Elias Diggins, Sheriff  
DSD Reform Executive Steering Committee Members  
Citizen Oversight Board Members

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<sup>59</sup> See Denver Sheriff Department 2013 Annual Report at 4; 13.



## **Appendix B**

### **BWC Policy**





## **BODY-WORN CAMERA - TESTING AND EVALUATION POLICY**

Denver Police Department

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The following Body-Worn Camera (BWC) policy will be in effect May 1, 2014, through the end of the testing and evaluation period. At that time, the policy will be reviewed and revised, as needed, prior to finalizing and publishing in the Operations Manual. All officers are required to review and familiarize themselves with the policy, whether or not they are involved in the testing phase. Officers may find themselves covering calls where body cameras are being worn; therefore, it is important that all officers have a clear understanding of the policy.

### **111.11 Body-Worn Camera Technology**

#### **(1) Purpose**

The body-worn camera (BWC) is an “on-the-body” audio and video recording system assigned to an officer as an additional means of documenting specific incidents in the field. The purpose of this policy is to establish guidelines related to the use, management, storage and retrieval of the data stored on the departmental issued BWC. Specific uses of the BWC are:

- a. To capture crimes in-progress, whether perpetrated against the officer or the community and to maintain this evidence for presentation in court.
- b. To document initial police response, the discovery of evidentiary items and the actions of the police pursuant to an investigation
- c. To aid in the documentation of victim, witness or suspect statements pursuant to an on-scene response and/or document advisement of rights, if applicable.
- d. To augment officer safety when a citizen should reasonably know his or her actions and statements are being recorded.
- e. To reduce unreasonable or false complaints made against officers during the course of their police duties.
- f. To serve as a training and performance mechanism to ensure the professionalism of all Denver Police Officers.

#### **(2) Policy**

To enhance the services provided to the community, the Denver Police Department authorizes the use of body-worn camera technology as an additional layer of documentation for events, actions, conditions and statements made during critical incidents and to improve officers' reports, collection of evidence and testimony in court. The use of body-worn camera technology is meant to assist and complement officers in the performance of their duties and is not meant to replace or relieve the officer of submitting any and all required written reports.

All audio, images and media associated with the BWC are the property of the Denver Police Department and will not be copied, released or disseminated in any form or manner outside the parameters of this policy without the express written consent of the Chief of Police. Under no circumstances will any employee of the Denver Police Department make a personal or secondary copy of any recorded event without the written consent of the Chief of Police (e.g., using a personal cell phone camera to record BWC media). Lead investigators creating a secondary copy of a BWC recording subsequent to an official investigation, which is to remain attached to the case file, are exempt from the above.

#### **(3) Definitions**

**BUFFERING Mode:** The BWC continuously loops a video recording for up to 30 seconds before the recording is started by the officer. While buffering, video only (no audio) is being recorded.

**EVENT Mode:** Once activated by pressing the EVENT button, the BWC saves the recorded buffered video and continues to record both audio and video.

## **BODY-WORN CAMERA - TESTING AND EVALUATION POLICY**

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**Evidence Transfer Manager (ETM):** Docking unit used to recharge and upload previously recorded audio and video (stored media) from the BWC. The ETM automatically transfers all stored media to evidence.com.

**Evidence.com:** An online, cloud-based digital media storage repository. All media is stored in a highly secure environment, accessible only to authorized personnel.

**Department Program Administrator:** Assigned to the Technical & Electronic Support Unit, the program administrator will maintain the integrity and efficiency of the data management and file retention systems.

### **(4) Officer Responsibilities**

- a. Officers will not use the BWC until they have successfully completed the following:
  - 1. All required training on the inspection, activation, use, storage and uploading of all recorded media from the BWC.
- b. Officers are to ensure the following when assigned to use the BWC:
  - 1. The BWC has no obvious signs of damage and is functioning properly. Any apparent damage, malfunction or loss will be immediately brought to the attention of a supervisor.
  - 2. The BWC will be properly affixed upon the officer's uniform at the beginning of shift in accordance with departmental regulations and manufacturer's guidelines. The BWC will be worn for the entire shift.
  - 3. In order to record all situations required by this policy, the officer must maintain the BWC in a constant state of operational readiness. Operational readiness shall mean that the BWC has adequate battery life/available storage, remains properly affixed to the officer's uniform and is set to buffering mode.
  - 4. Officers are responsible for the care and maintenance of the BWC while assigned to them. The BWC is to be operated and maintained according to the manufacturer's instructions and recommendations.
  - 5. Officers will only use a BWC that has been issued and approved by the Denver Police Department. The use of personal video recorders is not authorized.
- c. Officers will document the use of the BWC within reports, citations, log sheet and/or street checks as outlined in the BWC Training Manual.
- d. Officers are authorized to review their own BWC recording when preparing official written documentation of a specific event. Officers may only review recordings from their assigned BWC. The viewing will be utilized as a tool when completing written reports to ensure the accuracy and consistency of events. The following are exceptions to the above:
  - 1. If the officer is involved in (or witness to) a use of force incident that per policy requires the response of an Internal Affairs Division investigator (see OMS 503.01), the officer may be authorized to view their BWC recording after the Internal Affairs Division investigator has been consulted. The viewing of any BWC recording will only be permitted after receiving authorization from the Internal Affairs Division investigator acting under the direction of the commander of the Internal Affairs Division.
  - 2. If the officer is involved in (or witness to) a critical incident such as a police shooting or an in-custody injury resulting in death, the officer may be authorized to view their BWC recording after the Major Crimes Division investigator and the commander of the Major Crimes Division have consulted. The viewing of any BWC recording will only be permitted after receiving authorization from the commander of the Major Crimes Division and/or his/her designee.

## **BODY-WORN CAMERA - TESTING AND EVALUATION POLICY**

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- e. Officers will tag each recorded BWC audio/video with the Computer Aided Dispatch (CAD) number assigned to the incident and one of the call type categories available within the system.
- f. Prior to going off-duty, officers will place the BWC into the Evidence Transfer Manager (ETM) for charging and uploading of all stored media to evidence.com. The BWC will not be removed from the ETM until the media has been fully uploaded and the battery is fully recharged.
- g. Officers who may have inadvertently activated the BWC during non-law enforcement related activities can make an e-mail request through their chain of command to have the recording deleted. The affected commander will make the necessary determination based on fact the recording has no investigative or evidentiary value and forward the email to [DPDBodyCamera@denvergov.org](mailto:DPDBodyCamera@denvergov.org). The Operations Support Division Commander will review the file, approve or deny the request and forward it to the department program administrator for action. The original email and subsequent approval/denial will be retained by the department program administrator.

(5) Required Activation of the BWC

There are many situations where the activation of the BWC is appropriate and/or required and this policy is not intended to describe every possible circumstance. It is understood that not all situations will clearly start out as necessitating documentation by the BWC nor will all recorded events have a clear ending for when the BWC is no longer required. Officers are expected to follow departmental policy and procedure, utilizing ethical and legal discretion when activating and deactivating the BWC.

The Denver Police Department recognizes there are certain circumstances where officers in a proactive (non-dispatched) capacity may become involved in a situation requiring immediate action to prevent injury, make an arrest and/or prevent the destruction of evidence or escape. When these situations occur, officers should activate the BWC if doing so does not place them or others in danger. If the immediate activation of the BWC is not feasible due to an immediate risk to the safety of the officer or others, the officer will activate the BWC at the first available opportunity after the immediate threat has been addressed. Supervisors will closely review documentation of such incidents to ensure exigent circumstances did in fact exist.

- a. All officers will place the BWC into event mode prior to any officer initiated field contacts involving actual or potential violations of the law including:
    - 1. Traffic stops
    - 2. Pedestrian and/or vehicle contacts
  - b. All officers will place the BWC into event mode when responding to the following calls for service and/or in the following situations:
    - 1. While en-route to any in-progress, just occurred and/or any other call for service where the fleeing suspect and/or vehicles may be captured leaving the crime scene
    - 2. All calls requiring the presence of a Crisis Intervention Team (CIT) officer
    - 3. When responding to calls reportedly involving weapons or violence
    - 4. All calls involving suspected suicidal and/or suicidal individuals
    - 5. When engaging in a foot chase, provided the activation does not interfere with officer safety or the safety of others
    - 6. When emergency or pursuit emergency driving response is required (See OMS 112.08)
    - 7. While executing warrantless searches of individuals, vehicles, buildings and other places
- A. The BWC will be utilized to record the request and consent when practical. This recording is intended to enhance a documented consent however, it is not intended to replace the use of any form used to gain and/or record the consent to search without a warrant.

## **BODY-WORN CAMERA - TESTING AND EVALUATION POLICY**

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8. While advising an individual of their Miranda rights
  - A. The existence of a recorded advisement will be documented in the officer's statement.
9. All arrests and/or citations, provided the activation does not interfere with officer safety or the safety of others
10. While taking statements from subjects, victims and witnesses (See OMS 302.11)
  - A. Consideration may be given to a victim who requests not to be recorded or when circumstances warrant.
11. If not already, the BWC will be activated to record any encounter that becomes adversarial or in any situation that the officer believes use of the BWC would be appropriate or would provide valuable documentation.

c. Once placed in event mode, the BWC will remain on and not be turned off until the initial incident that caused the activation has stabilized or concluded; upon request of the victim; or as ordered by a supervisor. For the purposes of this section, an incident shall be considered stabilized when the initial police response or exchange of communication related to police enforcement activities has transitioned to a controlled and orderly investigation. Examples of stabilized incidents can be found in the BWC Training Manual.

1. Officers will document the reason that the BWC has been deactivated in the form of a recorded announcement on the BWC prior to deactivation. Examples of acceptable announcements can be found in the BWC Training Manual.
2. If an officer is on a perimeter or assigned to a static post where he/she is not in contact with citizens or actively part of the investigation, then he/she may deactivate the BWC to conserve battery life. The BWC will be reactivated if either of those fails to apply.
3. Once the situation has stabilized, if it is necessary to discuss issues or concerns with an officer, supervisor, doctor, nurse or paramedic in private, the BWC may be switched to buffering mode. This procedure will be followed for all circumstances that warrant the BWC to be switched from event mode to buffering mode.
  - A. The intention to stop recording will be noted verbally on the recording prior to changing modes.
  - B. As soon as the private conversation is completed, the BWC will be returned to event mode so long as the situation still falls under the definition of required use. Officers are reminded that when the BWC is placed back to event mode, the prior 30 seconds of video (no audio) will be saved.

(6) **Restricted Use of the BWC and/or stored media**

- a. Under no circumstance, except those instances involving criminal investigations of department personnel, will a conversation between department employees be recorded without all parties to the conversation being aware of the fact that it is being recorded. Conversations that are not required to be captured as evidence in the furtherance of completing a police report and/or subsequent police investigation will not be recorded
- b. The BWC will not be activated in places where a reasonable expectation of privacy exists, such as locker-rooms or restrooms unless the activation is for the purpose of official law enforcement activity such as a call for service.
- c. The BWC will not be used to record confidential informants or undercover officers.

## **BODY-WORN CAMERA - TESTING AND EVALUATION POLICY**

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- d. Prior to conducting a strip search, the officer will record a 360-degree video of the location where the strip search will be conducted. During the actual strip search, the BWC will be utilized to only capture audio of the event by positioning the camera away from the individual to be searched. (See OMS 104.01 (8) for authorization)
- e. Officers will only use the BWC in patient care areas of a healthcare facility when the recording is for official purposes and caution should be used to record only the parties involved in the event being investigated.
- f. Officers are not authorized to playback BWC recorded media for citizen viewing.

### **(7) Supervisor Responsibilities**

- a. Supervisors will ensure that every officer has turned in their assigned BWC prior to going off-duty.
- b. When an incident arises that requires the immediate retrieval of BWC media for chain of custody purposes (including, but not limited to: serious crime scenes, officer involved shootings or others as determined by policy/supervision) a supervisor will respond to the scene and ensure the BWC remains affixed to the officer in the manner it was found and that the BWC data remains uncompromised. Through direct and uninterrupted supervision, the supervisor is responsible for the care and custody of the BWC until it has been removed and secured by the lead investigator.
- c. Supervisors may view recordings in the field in order to mitigate citizen complaints, however permission must be obtained from the commanding officer of the Internal Affairs Division or his/her designee in order to playback BWC recorded media for citizen viewing.
- d. BWC recordings will not be randomly reviewed by supervisors to monitor officer's performance. Exceptions to this rule are:
  - 1. The supervisor is investigating a specific act of officer conduct
  - 2. The officer has been placed on a performance improvement plan within the performance evaluation system in order to address identified behavioral or performance deficiencies.
  - 3. Requests to review BWC recordings outside of these parameters must be made to and approved by the officer's commander or above.
  - 4. The aforementioned is not meant to limit or restrict the Department's review as part of an official investigation.

### **(8) Data Management and File Retention/Disclosure**

- a. All captured recorded BWC media will be uploaded and retained in evidence.com for one year. The retention of all BWC media will comply with all applicable State of Colorado statutory requirements regarding criminal justice record management and evidence retention.
  - 1. Any BWC media that has been flagged prior to the one year expiration date due to its evidentiary or administrative investigatory value will be moved into long term storage.
  - 2. All other BWC media will be deleted from the system after one year.
- b. Access to all BWC stored media will be restricted to authorized users and the viewing of any BWC footage will be restricted to legitimate law enforcement purposes.
- c. Any request for BWC media made from outside the Denver Police Department will comply with both the records disclosure and records management policies of the Department (See OMS 109.04 and 109.05).



**Appendix C**  
**How to File a**  
**Complaint/Commendation**





## How to File a DPD Complaint/Commendation

- ♦ **Postage-paid Complaint/Commendation Forms:** The OIM distributes complaint/commendation forms at government offices, libraries, and police facilities throughout Denver, and they can be mailed to the OIM at no charge.
- ♦ **OIM Online Complaint/Commendation Form:** Complaints and commendations may also be filed through online forms on the OIM, COB, DPD and DSD websites. See [www.denvergov.org/oim](http://www.denvergov.org/oim).
- ♦ **Email and FAX:** The OIM and COB also accept complaints and commendations through email at [OIM@denvergov.org](mailto:OIM@denvergov.org) and by FAX at 720-913-3305.
- ♦ **Walk-ins and Telephone:** Community members can drop off complaint/commendation forms during normal business hours on the 12th floor of the Webb Municipal building at 201 W. Colfax Avenue. In addition, every District police station in Denver is required to accept walk-in and telephone complaints. IAB also accepts complaints by telephone (720-913-6019) and walk-in (1331 Cherokee Street), during normal business hours.
- ♦ **Tort and Civil Rights Claims:** Investigations may also be initiated when a community member alleges officer misconduct in a claim or lawsuit filed against the City.

## How to File a DSD Complaint/Commendation

- ♦ **Postage-paid Complaint/Commendation Forms:** The OIM distributes complaint/commendation forms at government offices, libraries, and police facilities throughout Denver, and they can be mailed to the OIM at no charge.
- ♦ **OIM Online Complaint/Commendation Form:** Complaints and commendations may also be filed through an online form on the OIM, COB, and DSD websites. See [www.denvergov.org/oim](http://www.denvergov.org/oim).
- ♦ **Email and FAX:** The OIM and COB also accept complaints and commendations through email and fax at [OIM@denvergov.org](mailto:OIM@denvergov.org) and 720-913-3305.
- ♦ **Walk-ins and Telephone:** The DSD also accepts complaints and commendations by telephone (720-865-3888).
- ♦ **Tort and Civil Rights Claims:** Investigations may also be initiated as a result of allegations of deputy misconduct in a claim or lawsuit filed against the City.



**Appendix D**  
**Complaint/Commendaion**  
**Brochure Locations**

## CITY COUNCIL OFFICES

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**Susan Shepard**, District 1 City Councilwoman – City and County Building 1437  
Bannock St. Room 487 Denver, CO

**Jeanne Faatz**, District 2 City Councilwoman – 3100 S. Sheridan Blvd. Unit D Denver,  
CO

**Paul Lopez**, District 3 City Councilman – 4200 Morrison Rd. Unit 7 Denver, CO

**Peggy Lehmann**, District 4 City Councilwoman – 3540 S. Poplar St. Suite 102 Denver,  
CO

**Mary Beth Susman**, District 5 City Councilwoman – City and County Building 1437  
Bannock St. Room 484 Denver, CO

**Charlie Brown**, District 6 City Councilman – 2324 E. Exposition Ave. Denver, CO

**Chris Nevitt**, District 7 City Councilman – City and County Building 1437 Bannock  
St. Room 494 Denver, CO

**Albus Brooks**, District 8 City Councilman – 2855 Tremont Pl. Suite 201. Denver, CO

**Judy Montero**, District 9 City Councilwoman – 3457 Ringsby Ct. Suite 215 Denver,  
CO

**Jeanne Robb**, District 10 City Councilwoman – City and County Building 1437  
Bannock St. Room 493 Denver, CO

**Christopher Herndon**, District 11 City Councilman – 4685 Peoria St. Unit 245,  
Denver, CO

**Robin Kniech**, City Councilwoman At-Large – City and County Building 1437  
Bannock St. Room 488 Denver, CO

**Deborah Ortega**, City Councilwoman At-Large – City and County Building 1437  
Bannock St. Room 492 Denver, CO

## GOVERNMENT AGENCIES

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**Denver Public Library** – Central Branch 10 W. 14th Ave. Pkwy. Denver, CO

**Department of Safety, City and County of Denver** –1331 Cherokee St. Room 302 Denver, CO

**Human Rights & Community Partnerships** – Wellington E. Webb Building, 201 W. Colfax Ave. 2nd Floor, Denver, CO

**Office of The Independent Monitor** – Wellington E. Webb Building 201 W. Colfax Ave. 12th Floor Denver, CO

**Parks and Recreation** – Wellington E. Webb Building 201 W. Colfax Ave. 6th Floor Denver, CO

## COMMUNITY-BASED LOCATIONS

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**Barnum Recreation Center** – 360 Hooker St. Denver, CO

**Centro Humanitario** – 2260 California St. Denver, CO

**Colorado Progressive Coalition** – 700 Kalamath St. Denver, CO

**Denver Indian Center** – 4407 Morrison Rd. Denver, CO

**Greater Park Hill Community Center**– 2823 Fairfax St. Denver, CO

**Inner City Parish** – 1212 Mariposa St. Denver, CO

**Mi Casa Resource Center** – 360 Acoma St. Denver, CO

**Newsed Housing Corporation** – 901 W 10th Ave. Suite 2A Denver, CO

**Servicios De La Raza**– 3131 West 14th Ave. Denver, CO

**Southwest Improvement council**– 1000 S. Lowell Blvd. Denver, CO

**Su Teatro** – 721 Santa Fe Dr. Denver, CO

**True Light Baptist Church** – 14333 Bolling Dr. Denver, CO

## JAILS

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**County Jail** – 10500 E. Smith Rd. Denver, CO

**Denver Detention Center** – 490 W. Colfax Ave. Denver, CO

## POLICE STATIONS

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**District 1 Station** – 1311 W. 46th Ave. Denver, CO

**District 2 Station** – 3921 Holly St. Denver, CO

**District 3 Station** – 1625 S. University Blvd. Denver, CO

**District 4 Station** – 2100 S. Clay St. Denver, CO

**District 5 Station** – 4585 Peoria St. Denver, CO

**District 6 Station** – 1566 Washington St. Denver, CO

**Police Headquarters** – 1331 Cherokee St. Denver, CO

## SCHOOLS

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**Bruce Randolph 6-12** – 3955 Steele St. Denver, CO

**Center For 21 Century Learning** – 1690 Williams St. Denver, CO

**Colorado Heights University** – 3001 S. Federal Blvd. Denver, CO

**East High School** – 1600 City Park Esplanade Denver, CO

**Escuela Tlatelolco** – 2949 Federal Blvd. Denver, CO

**Manual High School** – 1700 East 28th Ave. Denver, CO

**South High School** – 1700 E. Louisiana Ave. Denver, CO

**Swansea Elementary School** – 4650 Columbine St. Denver, CO

**West High School** – 951 Elati St. Denver, CO

## COURTS/CRIMINAL JUSTICE

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**Colorado State Public Defender** – 1560 Broadway Suite 300 Denver, CO

**Community Re-entry Project** – 2505 18th St. Denver, CO

**Denver District Court Criminal** – City & County Building 1437 Bannock St.  
Civil & Domestic, Room 256 Denver, CO

**Denver Municipal Court General Session** – City & County Building 1437  
Bannock St. Room 160 Denver, CO

**Denver Municipal Court Traffic Division** – City & County Building 1437  
Bannock St. Civil & Domestic, Room 135 Denver, CO

**Lindsay-Flanigan Courthouse** – 520 W. Colfax Ave. Denver, CO

**Safe City Kids Office** – 303 W. Colfax Ave. 10th Floor Denver, CO





## **Appendix E**

### **Citizen Oversight Board Bios and Meetings**



## Citizen Oversight Board (COB)

The COB will assess the effectiveness of the Monitor's Office; make policy level recommendations regarding discipline, use of force, and other policies; rules; hiring; training; community relations; and the complaint process; address any other issues of concern to the community; members of the board, the monitor, the Manager of Safety, the Chief of Police, the Sheriff, or the Fire Chief.

### 2014 COB Members:

- ◆ **Dr. Mary Davis** is the Chair of the COB. She has been actively involved in civic and community-improvement activities since arriving in Denver more than 30 years ago. Dr. Davis was the Director of Administration at the Regional Transportation District for 10 years prior to launching McGlothlin Davis, Inc., an organizational effectiveness consulting firm in 1995. She has served on numerous nonprofit boards including the Denver Chapter of the American Cancer Society, The Denver Hospice, The Learning Source, and Goodwill Industries of Denver, serving as board chairperson of the latter two organizations. Other community-based activities include serving on school accountability committees, nonprofit scholarship committees, higher education advisory committees, and as director of Children's Church at two churches.
- ◆ **Francisco "Cisco" Gallardo** is the Vice Chair of the COB. In his teen years, he joined what has been one of the largest gangs in Denver's north side. Since that time, after facing a possible 48 years in prison, he has dedicated his life to undoing the damage he helped cause. By redefining respect, power and pride, and making a commitment to help the youth heal, he has helped countless young people over the past 20 years to redefine their own lives through his work in the community.
- ◆ **Cathy Reynolds** is Secretary of the COB. She served on the Denver City Council as an at large member for a record 28 years and 21 days, as well as Chairing the Urban Drainage and Flood Control District for more than 20 years. She held the position of City Council President five times during her tenure. Ms. Reynolds spent 25 years on the board of the Colorado Municipal League, serving as president twice and is Past President of the National League of Cities.
- ◆ **Nita Gonzales** is the President/CEO of Escuela Tlatelolco Centro de Estudios. She received her Bachelor's of Science in Accounting and Master's in Education from Antioch University, in Yellow Springs, Ohio. Her work includes being one of the founders and organizers of the Chicano/Chicano/Mexicano Education Coalition comprised of 23 community organizations and groups. She has also provided essential leadership in the All Nations Alliance (ANA), a coalition of over 80 social justice organizations from Denver-Boulder. Ms. Gonzales is the recipient of many awards and honors for her work in educational and community empowerment, and continues to work as a community-builder, visionary, and mentor across color boundaries, across cultures, and across age groups.

- ◆ **Pastor Paul Burleson** founded Denver's Friendship Baptist Church of Christ Jesus in 1974 and continues to serve as its pastor. He spent 28 years as an engineer with U.S. West Communication and four years in the U.S. Air Force. Pastor Burleson is a former dean of the United Theological Seminary's Denver Extension, and is experienced in the prevention, identification, and counseling of individuals and families with substance abuse and other at-risk behaviors.
- ◆ **Rabbi Steven E. Foster** took his first position as an ordained rabbi at Temple Emanuel in 1970 and became the Senior Rabbi in 1981. He brought to his rabbinate a deep commitment to social justice, Jewish education and Jewish continuity. His work in founding the Temple Emanuel Preschool and Kindergarten, Herzl Day School, Stepping Stones to a Jewish Me (an outreach program for interfaith families) in addition to his far reaching community work such as serving on the boards of Planned Parenthood of the Rocky Mountains, United Way, and Allied Jewish Federation to name a few, demonstrate his commitment to the Jewish and secular community alike. Rabbi Foster retired as Senior Rabbi in June, 2010, and now serves as Rabbi Emeritus of Temple Emanuel as well as chaplain for The Denver Hospice.
- ◆ **Mark Brown** has been involved in the area of law enforcement and management for 25 years. He is a Criminal Investigator Supervisor for the Colorado Department of Revenue, Division of Racing events, where he manages firearms training, armory maintenance, work scheduling, and vehicle maintenance. He is also currently involved in legislative bill development, budget analysis, and racing rules and regulation development. Mark Brown received a Bachelor of Arts Degree in Economics from the University of Colorado and is an active member of the Kappa Alpha Psi Fraternity Incorporated. He holds a Colorado Real Estate Broker license.

## Regular COB Meetings

COB meetings are usually held on the first and third Fridays of each month on the 12th floor of the Wellington Webb Building at 201 W. Colfax Avenue. It is advised that you call to confirm in advance if you plan to attend to ensure the Board will be meeting.

## 2014 Quarterly Public Forums

COB public forums are usually held in the evenings from 7-8:30 p.m. in rotating police districts in Denver. In 2014 public forums were held on the following dates and in the following locations:

1. March 27th – District 4 – Kepner Middle School, 911 S. Hazel Street
2. July 10th – District 5 – True Light Baptist Church, 14333 Bolling Drive
3. September 4th – District 6 – Denver Center for 21st Century Learning, 1690 Williams Street
4. December 11th – District 2 – Swansea Elementary School, 4650 Columbine Street

## Proposed 2015 Public Forums – Locations to be determined

- ♦ March 19th, 2015 at 7:00 PM - District 1 – Cheltenham Elementary School, 1580 Julian Street
- ♦ June 4th, 2015 District 3 – Location to be announced
- ♦ September 2nd, 2015 District 4 – Location to be announced
- ♦ December 3rd, 2015 District 5 – Location to be announced







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