



**DENVER**  
OFFICE OF THE  
INDEPENDENT MONITOR

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# 2012 Annual Report

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Nicholas E. Mitchell  
Independent Monitor



March 15, 2013

Mayor Michael B. Hancock  
Members of Denver City Council  
City and County Building  
1437 Bannock Street  
Denver, CO 80202

Dear Mayor Hancock and City Council Members:

It is my pleasure to present to you the Annual Report of the Office of the Independent Monitor (“OIM”) for 2012. This report provides an overview of complaints received, closed and monitored by the OIM in 2012. It also describes, in broad strokes, some of my goals for 2013 as the new Independent Monitor of the Denver Police Department and Denver Sheriff Department (collectively “Departments”).

Many people deserve recognition for their contributions to the work of the OIM in 2012. The members of the Citizen Oversight Board: Dr. Mary Davis, Rabbi Stephen Foster, Pastor Paul Burleson, Cathy Reynolds, Nita Gonzalez, Cisco Gallardo, and Carmen Messina Velasquez, have worked tirelessly on disciplinary policy issues, and have significantly influenced my thinking on independent civilian oversight in Denver. The members of Denver City Council’s Health, Safety, Education & Services Committee and Council President Mary Beth Susman have been a source of critical information about issues of concerns to their constituents. Your support, Mayor Hancock, has been instrumental, as has that of Deputy Chief of Staff Stephanie O’Malley.

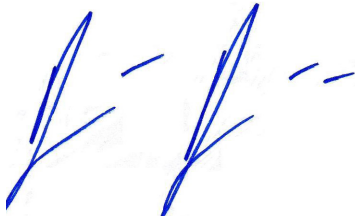
I have also benefitted from many conversations with Police Chief Robert White, Commander Mary Beth Klee, Commander Michael Battista, Undersheriff Gary Wilson, Major Venessie Brown, Captain Deric Wynn, Deputy Managers of Safety Jess Vigil and Ashley Kilroy, and Manager of Safety Alex Martinez.

Although they will not be named here, a number of officers and



deputies also deserve recognition for their willingness to share their ideas (and concerns) with me. These conversations have been an unforgettable reminder of the human impacts of disciplinary decisions on those sworn to serve and protect. In addition, many community members have met with me, in public and private, to discuss their ideas about police accountability. This high degree of public engagement on safety issues is a significant asset for this City. It is my hope that the information and analysis in this report, and those the OIM produces in the future, help the Departments to police themselves as effectively as the public—and many officers—deserve and demand.

Sincerely,

A handwritten signature in blue ink, consisting of two stylized, overlapping letters that appear to be 'N' and 'M', followed by a horizontal line and a dash.

Nicholas E. Mitchell  
Independent Monitor

Project Staff:

Dr. Joseph De Angelis, Policy Director  
Abdul Sesay, Senior Research Analyst  
Gregg Crittenden, Senior Deputy Monitor  
Nate Fehrmann, Deputy Monitor  
Deborah Klein, Deputy Monitor  
Gerylann Castellano, Office Manager

# 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 on patterns of complaints, findings, and discipline;
- ◆ Issuing recommendations for improving Police and Sheriff policy, practices, and training;
- ◆ Conducting outreach to the Denver community and stakeholders in the disciplinary process;
- ◆ Promoting alternative and innovative means for resolving complaints, such as mediation.



# Contents

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<b>1</b>	<i>Overview</i>	1
	Introduction . . . . .	1
	2012: A Year of Structural and Leadership Change . . . . .	4
	Looking Ahead in 2013 . . . . .	9

---

<b>2</b>	<i>Denver Police Department (DPD) Monitoring</i>	15
	Why Complaints Matter . . . . .	15
	Complaints Filed in 2012 . . . . .	18
	Most Common Complaint Specifications . . . . .	20
	Community Complaint Screening Decisions . . . . .	22
	Internal Complaint Screening Decisions . . . . .	23
	Formal Investigations . . . . .	30
	Post-Investigation Disciplinary Process . . . . .	32
	Patterns in Discipline . . . . .	36
	Timeliness . . . . .	40
	Commendations and Awards . . . . .	44
	DPD Monitoring Endnotes . . . . .	46

---

<b>3</b>	<i>Denver Sheriff Department (DSD) Monitoring</i>	49
	Complaints Filed in 2012 . . . . .	51
	Most Common Complaint Specifications . . . . .	53
	Complaint Location . . . . .	54
	IAB Investigation Process . . . . .	55
	Disciplinary Process and Findings . . . . .	58
	Findings on Complaints . . . . .	59

Patterns in Discipline . . . . .	60
Timeliness . . . . .	64
Commendations and Awards . . . . .	65
DSD Monitoring Endnotes . . . . .	67

---

<b>4</b> <i>Critical Incidents</i> . . . . .	69
Two-Stage Investigative Process . . . . .	69
Officer-Involved Shooting Statistics . . . . .	70
Officer-Involved Shooting Descriptions . . . . .	71
In-Custody Death Statistics . . . . .	80
In-Custody Death Descriptions . . . . .	82



# 1

## Overview

### Introduction

Public discussion of policing and alleged officer misconduct is often dominated by highly polarized perspectives. On one hand, some community groups routinely assert that the police act beyond the reach of law and without any internal systems to ensure accountability. Conversely, others reflexively defend all officer conduct as appropriate, and even seek to minimize police abuse, no matter how flagrant.

This pattern of debate is common to many cities across the United States, including Denver. Those who categorically brand local law enforcement as lawless fail to acknowledge the significant improvements of the last decade, including the implementation of disciplinary matrices and the establishment of independent civilian oversight through the Office of the Independent Monitor (“OIM”) and the Citizen Oversight Board (“COB”). Others who automatically rush to the defense of local law enforcement, in even the most egregious cases, fail to properly recognize the legitimate community concerns that underlie the public criticism.

We submit that this absolutist pattern of debate diverts our collective attention from the real work to be done in Denver. That work involves cataloging the internal mechanisms that are intended to detect and deter official misconduct and making clear-eyed assessments of their effectiveness. Are they working as they should? If not, how can they be repaired to better meet community and officer needs? Are there other measures that can better ensure that the Denver Police Department (“DPD”) and the Denver Sheriff Department (“DSD,” collectively “Departments”) are effectively policing themselves?

In this report and those to follow, we will attempt, through systematic analysis, to answer these questions and others. We will endeavor to identify Departmental systems or practices that may need improvement through the reformulation or refinement of policy or training, and make recommendations for achieving those improvements. We will rely on both quantitative data and qualitative observation to assess the Internal Affairs investigations process, the success of the disciplinary matrices at achieving fairness and consistency in discipline, and the accessibility of the complaint process, as just a few examples. Our analyses will be data-driven, and will depend on both statistics and observations from our daily immersion in Internal Affairs investigations and Departmental disciplinary decisions.

As we embark on this work, we recognize that it is natural if some dislike being “monitored.” Despite this, we have been impressed, to date, by the willingness of many police and sheriff leaders to openly discuss with us both individual cases and broader trends in complaints and complaint investigations. The work that we propose is not a unilateral endeavor by the OIM, but instead a partnership with the Departments. We hope that our participation and feedback continues to be taken in the collaborative spirit with which it is offered.

Readers may note that our reports are now notably different from OIM reports of the past, including the new formatting of this document. We will no longer be reporting quarterly, and will instead issue a mid-year report, an annual report, and individual policy and practice analyses as they are completed. In addition, although we will have much data to discuss, we will preference narrative discussion over raw numbers, where possible. These changes are intended to signal both the new leadership at the OIM and our intention of creating reports that, if never “easy reading,” will become more accessible to general readership over time.

Chapter 1 of this report is a broad overview of certain structural and procedural changes in the DPD, the DSD, and the OIM in 2012. Chapters 2 and 3 discuss our monitoring

#### Case/Concept Text Boxes

Throughout this report, we feature example cases from the past year and important concepts in civilian oversight in text boxes that look like this one. The featured cases do not represent all of the cases that we worked on. They are, rather, representative examples of different types of work done by the OIM during the year.

of the DPD and the DSD, respectively, and broad statistical patterns related to complaint and disciplinary trends in each. Finally, Chapter 4 contains information about the officer-involved shootings and deaths in custody that occurred in 2012. This report is largely descriptive of current complaints, complaint investigations and disciplinary processes. Expect deeper analyses of some of the subjects discussed above later in 2013 and beyond.

In order to save paper and reduce printing costs, additional process statistics, summaries of selected commendations awarded in 2012, and supplemental information about the OIM were not included in this report. They are instead available in an electronic appendix at: [www.denvergov.org/oim](http://www.denvergov.org/oim) under the link titled “Reports.”

## 2012: A Year of Structural and Leadership Change

2012 was a year of transformation in law enforcement and independent civilian oversight in Denver, bringing major changes to the DPD, the DSD, and the OIM.

### Denver Police Department

In late 2011, a new chief, Robert White, took the helm of the Denver Police Department (“DPD”) and selected new commanders for many of the DPD’s most significant leadership positions. Chief White also made structural changes to the DPD, which included eliminating the rank of Division Chief, civilianizing certain positions that were previously filled by sworn officers, and opening appointed positions to competition. The long-term effects of these structural changes are not yet clear.

We can report, however, our positive impression, to date, of some of Chief White’s recent changes to the DPD disciplinary process. Working with the Department of Safety, Chief White created the Conduct Review Office (“CRO”) to expedite disciplinary decisions and streamline what had been the notoriously unwieldy process of DPD command review. He also appointed Commander Mary Beth Klee to head the Internal Affairs Bureau (“IAB”), and she has imposed a 30-day requirement on her staff for completing most investigations. These changes appear to be bearing fruit.

#### What is the Difference Between the Manager of Safety and the Independent Monitor?

This question is sometimes posed by community members. Denver’s City Charter gives the Manager of Safety “full charge and control” of Denver’s Police, Fire, and Sheriff Departments. That is, the Manager controls the DPD, DFD, and the DSD, and has the power to hire and fire officers, firefighters, and deputies. The Manager is the only public official who holds this power; not even the Chief of Police, Chief of Fire, or Director of Corrections may hire or fire members of their department without the Manager’s permission.

In contrast, the Independent Monitor is charged with providing independent civilian oversight of the disciplinary decisions made by the Manager, Chief of Police, and Director of Corrections. The OIM has no control over DPD or DSD, and no power to hire or fire officers or deputies. Instead, the Independent Monitor seeks to ensure effectiveness and transparency in the disciplinary processes by monitoring and publicly reporting on the completeness, thoroughness, and fairness of investigations and discipline. This difference, and the independence of the OIM from the DPD and the DSD, provides an important check and balance in the disciplinary system for officers and deputies.

Between 2010 and 2012, there was a 42% drop in the median number of days required to conduct formal investigations and render disciplinary decisions on DPD cases. Although this trend likely began with the elimination of Disciplinary Review Boards under former Police Chief Whitman and then Manager Garcia, it accelerated in 2012 under Chief White. The creation of a new Deputy Manager of Safety position, now filled by former Judge Jess Vigil, has also noticeably shortened the amount of time it takes for the Department of Safety to impose discipline.

Even more striking, in 2010, the median time for IAB to complete its work on formal complaint investigations was 67 days. In 2012, this number was reduced to a median of 33 days, a decline of approximately 51%. These are significant improvements in efficiency and timeliness, and the DPD deserves to be proud of its accomplishments in these areas.

#### Significant DPD Complaint Data

- ◆ In 2012, 524 community complaints were recorded against DPD officers, a slight numerical increase from 2011.
- ◆ Between 2010 and 2012, the number of days for IAB to complete investigations declined by approximately 51%.

Although these data are praiseworthy, we must also make clear that a department's ability to police itself is not measured only by timeliness. Qualitative factors, such as the willingness of officers to accept civilian complaints, the impartiality of investigations, the uniform application of disciplinary rules without favoritism, and a department's willingness to make disciplinary decisions without regard to internal or external politics, are among many other criteria by which a department's ability to self-police is measured. We believe that both Departments likely perform well in many of these areas, and intend to analyze some of these factors in our reports to come.

## Denver Sheriff Department

The Denver Sheriff Department (“DSD”) underwent several important staffing changes in 2012, including significant turnover in the command and investigative staff of DSD Internal Affairs (“DSD IAB”).

A DSD captain is assigned to manage the day-to-day operations of DSD IAB, serving as second-in-command to Major Venessie Brown, who heads the unit. In the second half of 2012, Captain Connie Coyle, the DSD IAB captain for several years, left IAB to take command of the DSD’s Vehicle Impound Facility. Captain Coyle is a dedicated and conscientious supervisor. While we were happy to see her take on a new and challenging assignment, we were sorry to see her depart from DSD IAB.

Captain Coyle was replaced by a captain who served in DSD IAB for only a short time before retiring. Captain Deric Wynn then transferred into DSD IAB. Although Captain Wynn has been in place for only a short time, we have already been impressed by his commitment to ensuring effective, high-quality investigations. In addition to this change in leadership at DSD IAB, there was also significant turnover among the investigative staff, with three of the five investigative sergeants being replaced in 2012. Thus, a full 60% of the investigative workforce in DSD IAB was new last year.

These staffing changes may have contributed to a temporary reduction in complaint handling efficiency in 2012. For example, between 2011 and 2012 the median number of days to complete the investigation and disciplinary review of DSD complaints increased by 52%. We have spoken with the Director of Corrections and IAB command staff about this, and are confident that they are working to address this increase.

Apart from these shifts in timeliness, we note that there has been a steady decline in the number of complaints recorded against deputies in the past five years. Between 2007 and 2012, the number of inmate complaints recorded against deputies declined by 55%. This could be a positive development caused by improvements in policy, training, or deputy conduct. Other factors may also cause such a numerical decline, including changes in the reporting practices of Department employees, shifts in community confidence in the complaint process, changes in the number

### Significant DSD Complaint Data

- ◆ Between 2011 and 2012, the median number of days to complete the investigation and disciplinary review of DSD complaints increased by 52%.
- ◆ Between 2007 and 2012, the number of inmate complaints recorded against deputies declined by 55%.

of inmates, or reduced accessibility of the complaint system. Because we do not know what has caused this long-term drop in complaint numbers, we intend to work with the DSD to conduct further analysis of this issue.

### **DSD Implements a Model Policy to Protect Transgender Inmates**

Transgender and gender-variant inmates face unique challenges in correctional settings and are often at heightened risk of discrimination, harassment, and sexual assault. Recognizing these challenges, Director of Corrections Gary Wilson formed a 40-member committee to help the DSD develop a policy to address the specific needs of this population. On June 6, 2012, the DSD implemented a new policy designed to ensure a safe, secure, and discrimination-free environment for transgender and gender-variant inmates.

This new policy is one of the most progressive in the country, and will very likely reduce the risks that transgender/gender-variant inmates face in Denver's correctional facilities. We believe that the DSD deserves high praise for its work on this project.

## Office of the Independent Monitor

There were also important changes to the OIM in 2012. In January 2012, Richard Rosenthal, the City's first Independent Monitor, left the City to take a new position in British Columbia, Canada. The national search to select a new Monitor was protracted, and it was not until late August 2012 that Nicholas E. Mitchell had been selected by the Mayor, confirmed by City Council, and had assumed the position of Independent Monitor. In the intervening eight months, the OIM operated under the stewardship of Acting Monitor Gregg Crittenden, who did an excellent job of maintaining the work of the OIM under challenging conditions and with limited staffing.

In light of the OIM staffing shortfall, Mayor Michael Hancock authorized the hiring of an additional deputy monitor, a research analyst, and to return the OIM community outreach ombudsman to full time status in 2013. We plan to make full use of these employees to increase our case monitoring, policy and practice evaluation, and community outreach programs. We are also evaluating the OIM's internal processes in order to improve the efficiency and timeliness of OIM case review and monitoring, which were negatively impacted by short staffing in 2012.

The last year also brought possible changes to the ordinance under which the OIM operates. In October 2011, Denver Auditor Dennis J. Gallagher released an audit of the OIM, which found that the ordinance creating the OIM was prone to varying interpretations (among other findings). In response to this assessment, in February 2012, Mayor Hancock convened a review committee to assess the OIM ordinance and make suggested revisions. The committee included police and sheriff command staff, the Manager and a Deputy Manager of Safety, a legislator, community leaders, representatives of the City Attorney's Office, a member of the COB, and representatives from the police, sheriff, and fire unions. The work of the Ordinance Review Committee is now concluded, and the Committee is preparing to make its recommendations to City Council.



## Looking Ahead in 2013

In 2013, the OIM will have six broad areas of focus. Together, these concentrations reflect our priorities for increasing engagement with the community, ensuring accessibility of the complaint and commendation processes, working to ensure the thoroughness and impartiality of investigations and disciplinary outcomes, monitoring officer-involved shootings and deaths in custody, and increasing opportunities for dialogue between officers and community members through mediation.

### Focus Area # 1: Community Engagement and Accessibility

#### OIM Outreach Audiences

- ◆ Immigrant populations and the community and family groups that support them.
- ◆ Denver Police Officers and Sheriff Deputies.
- ◆ Communities of Color and their advocates.
- ◆ Advocacy groups working on safety issues and community concerns about officer misconduct.
- ◆ Community and business organizations.
- ◆ Faith-based and neighborhood associations.
- ◆ Social service providers.
- ◆ Denver City Council.

Outreach is a critical part of the work of civilian oversight of law enforcement. Meeting with people in their communities to discuss their concerns, hear their stories, and to explain case handling processes helps to bolster confidence in the integrity of the disciplinary system and civilian oversight. It also provides opportunities for the collection of important information about areas of police/community tension.

It is vital that we routinely reach out to, share information with, and learn from all of the stakeholders in the police and sheriff disciplinary processes. We regularly meet with community groups, faith-based institutions, and others to provide information about the complaint and disciplinary processes, and will hold more of these meetings in 2013. We will also meet with police officers and sheriff deputies to discuss their concerns and convey information about the work of the OIM.

## Outreach Strategies

In 2013, our outreach program is guided by goals of inclusiveness and accessibility. The complaint and commendation processes must be available to every resident of and visitor to Denver, and we share responsibility with DPD and DSD for ensuring public awareness of these processes. This effort will take many forms, including:

**A. Increasing Community Access to the Complaint and Commendation Processes**

Over the coming year, we will revise the OIM complaint/commendation forms and certain other written materials. These materials will also be translated into other languages in order to make the complaint and commendation processes accessible to Denver residents who are not fluent in English or Spanish. Further, we have already significantly increased the number of the locations at which these materials are distributed throughout Denver. They are now available at Denver Public Libraries, Denver Recreation Centers, and the Office of the Colorado Public Defender, among other sites. *See* Appendix A. We will continue to work to expand public access in 2013.

**B. Redesign of Website**

We have prioritized the redesign of the OIM website so that it will be more user-friendly, and will provide easier access to complaint and disciplinary information. We will publicly report on the completion of this redesign in 2013. In the meantime, information on complaints, the OIM ordinance, news and updates, and complaint/commendation forms—in English and Spanish—are available at: <http://www.denvergov.org/OIM>.

**C. Engaging Communities in Denver**

In 2012, OIM staff held meetings with neighborhood and community organizations throughout Denver. However, the OIM was significantly understaffed in 2012, including having an Acting Monitor for approximately eight months, and losing other staff members. As such, the number of these meetings de-

### The OIM on Social Media

In October 2011, Denver City Auditor Dennis J. Gallagher recommended that the OIM should strengthen its community outreach program by establishing a presence on social media. The OIM has adopted that recommendation, and now has a Facebook account to broadcast relevant news and updates from the OIM, as well as the dates and locations of upcoming community forums, presentations, and appearances.

Connect with us on Facebook at:  
[www.facebook.com/OfficeoftheIndependentMonitorDenver](http://www.facebook.com/OfficeoftheIndependentMonitorDenver)

creased in 2012. 2013 will bring a significant increase in the number of meetings with and presentations to community groups. Because the OIM is a relatively small city agency, working in partnership with community-based organizations will allow us to maximize resources to reach larger audiences than we would be able to reach on our own.

**D. Engaging Officers and Deputies**

A very important part of the OIM outreach program also involves creating opportunities for dialogue with and feedback from officers and deputies. This permits us to convey the substance of our work, dispel misconceptions, and to receive information about officer experiences with the investigative and disciplinary processes. To facilitate this communication, the Independent Monitor and other OIM staff will visit roll calls and work to create informal opportunities for sharing information and ideas with officers and deputies throughout 2013.

## Focus Area # 2: Policy Review & Systems Analysis

Sustained community complaints (those in which misconduct is found) generally require the imposition of discipline under the DPD or DSD disciplinary matrices. Other complaints, however, may present systemic issues that are best handled through the evaluation of Department policy or practices.

Policy and practice review is designed to serve a preventative function by identifying problems and recommending solutions that will reduce risks of misconduct or community complaints in the future. Policy recommendations can influence entire departments, rather than just correcting the behavior of particular officers who have engaged in misconduct. Policy and practice review can also be a risk-management tool useful for identifying areas of potential liability and providing the information necessary to mitigate those legal hazards.

## Possible 2013 Projects

The areas on which we will focus our policy and practice analyses will be guided by our observations in individual cases, by community feedback, and our consultations with the Departments. Although our focus may shift in response to changes in any of these factors, the following are

some of the projects that we are interested in exploring in 2013:

- ◆ National best practices suggest the importance of proactive risk management tools to effective self-policing. These systems, often called “early intervention systems,” do not predict officer misbehavior. Rather they help determine whether statistical patterns in civilian complaints, uses of force, and other factors, identify particular officers who may require active performance monitoring, retraining or disciplinary intervention. When properly implemented, these systems can be useful at reducing the risk of lawsuits and misconduct payouts by municipalities. They can also help save officer careers and prevent harm to community members through the proactive identification of officers who are at risk. At present, DPD has an early intervention system, while DSD does not. We intend to examine the DPD’s use of its early intervention system, and possible deployment of such a system by the DSD, to determine whether there are possibilities for improvement.
- ◆ Community confidence in the disciplinary system is dependent upon access to the complaint process. There are multiple possible inputs to this process, including district police stations, the IABs, forms distributed by the OIM in various communities and, for the DSD, complaints filed directly with deputies and supervisors. We will examine the inputs into the complaint process to determine the level of access enjoyed by community members, and evaluate possibilities for improving access.

### Focus Area #3: Working to Ensure the Thoroughness and Impartiality of Internal Investigations

Among the most important work of the OIM is our day-to-day monitoring of IAB case investigations. Depending on the seriousness of the alleged misconduct, this can involve “active monitoring,” which is contemporaneous review of evidence as it is gathered and real time recommendations on investigative approach and direction. For complaints alleging less serious misconduct, we review the investigations upon case closure to determine whether they are thorough and complete and, if not, how any deficiencies can be remedied. In 2012, understaffing and the lack of a permanent monitor served as significant impediments to the efficiency of the OIM’s case review and monitoring work, particularly since

cases were being resolved more quickly by the DPD and the Department of Safety. We anticipate that the addition of a deputy monitor will enable us to improve the efficiency of the OIM's case reviews and expand the number of cases that we actively monitor. In those cases, we will not be limited to reviewing the completed investigative files, but will be able to contemporaneously monitor interviews, suggest areas of inquiry, and proactively work to ensure the fairness and completeness of the investigations.

#### **Focus Area #4: Working to Ensure Fair Disciplinary Outcomes that are Consistent with the Disciplinary Matrices**

Our involvement in complaints does not end with the conclusion of investigations. Instead, we follow cases throughout their life cycle, making disciplinary recommendations to the Chief of Police, Director of Corrections, and Department of Safety, until disciplinary decisions are ultimately reached. We also report to the public and to sworn officers on those decisions and the processes employed to reach them. In 2013, we will continue to make such disciplinary recommendations, and monitor whether the implementation of the disciplinary matrices is achieving consistency and fairness in discipline.

#### **Focus Area #5: Monitoring Officer-Involved Shooting and Death-in-Custody Investigations**

Pursuant to Denver Ordinance, the OIM “actively monitor(s) and participate(s)” in officer-involved shooting and in-custody death investigations. OIM staff are notified and respond to the scene when an officer discharges his or her weapon or someone dies in the custody of the DPD or the DSD. We are generally granted access to crime scenes, and we monitor witness interviews. We may make recommendations regarding the direction of these administrative investigations, and whether the officer conduct was “in policy” or otherwise raises policy or training concerns for the DPD or the DSD. In 2013, we will continue to work with the Departments to monitor all officer-involved shootings and deaths-in-

custody, and make recommendations on investigative thoroughness and accuracy.

## **Focus Area #6: Ensuring Continued DPD Officer/Community Member Dialogue Through Mediation**

Denver's officer/community member mediation program has one of the highest mediation rates per sworn officer of any municipality in the country. The program often serves as a learning opportunity for both complainants and officers. Complainants who opt for mediation often learn about police policy and training, while officers may benefit from the opportunity to see their own actions through the eyes of community members. Both complainants and police officers consistently report high rates of satisfaction with mediation, an accomplishment for both the DPD and the OIM.

In 2013, we will continue to promote opportunities for community member/officer dialogue, including expanding the use of mediation in appropriate cases.

# 2

## Denver Police Department (DPD) Monitoring

### Why Complaints Matter

Having a complaint process that is accessible to all members of the community is critical for several reasons. By allowing Denver residents to file complaints, the Denver Police Department receives information it can use to hold officers accountable when they fail to live up to Department and community standards of conduct. Complaints may provide “customer feedback” that can be used to improve the delivery of police services through the refinement of policies, procedures, and training. Complaints can also identify points of friction between officers and the community, which can support the development of outreach and community education initiatives. Finally, having an open complaint process tends to improve community confidence in the police, which enables officers to fulfill their important public safety function.

### Community Complaints

Community complaints are allegations of misconduct by a sworn member of the DPD that are filed by community members. Such complaints can be filed in a number of ways:

- ◆ **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. *See Appendix A.*
- ◆ **OIM Online Complaint/Commendation Form**  
Complaints and commendations may also be filed through online forms on the OIM, COB, DPD and DSD websites.

◆ **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.

## 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 purely procedural than community complaints, and often allege that an officer failed to follow DPD protocol. Not all internal complaints are minor, however, as complaints of officer violations of criminal law are sometimes generated internally.

## 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

### Different Models of Case Intake and Screening

In Denver, DPD IAB handles case intake, the charging of allegations/specifications, and makes screening decisions on all community complaints. OIM staff review the evidence gathered during intake investigations and may recommend further investigation or changes to the screening decisions or the specifications to be charged. DPD, however, has the final authority to make these case handling determinations.

Some civilian oversight agencies in other cities play a greater role in the intake and screening process than the Denver OIM. For example, the Independent Police Review Division (“IPR”) in Portland, OR, receives almost all community complaints and uses civilian investigators to conduct intake investigations and classify the allegations. The IPR has exclusive authority to make screening decisions. If the IPR decides that a formal investigation is necessary, the complaint is sent to Police Internal Affairs for an investigation. Other oversight agencies also have similar authority to investigate and classify community complaints, including: Eugene, OR; Albuquerque, NM; Chicago, IL; King County, WA; and Boise, ID.



to the investigation of each complaint. IAB conducts this preliminary investigation (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.

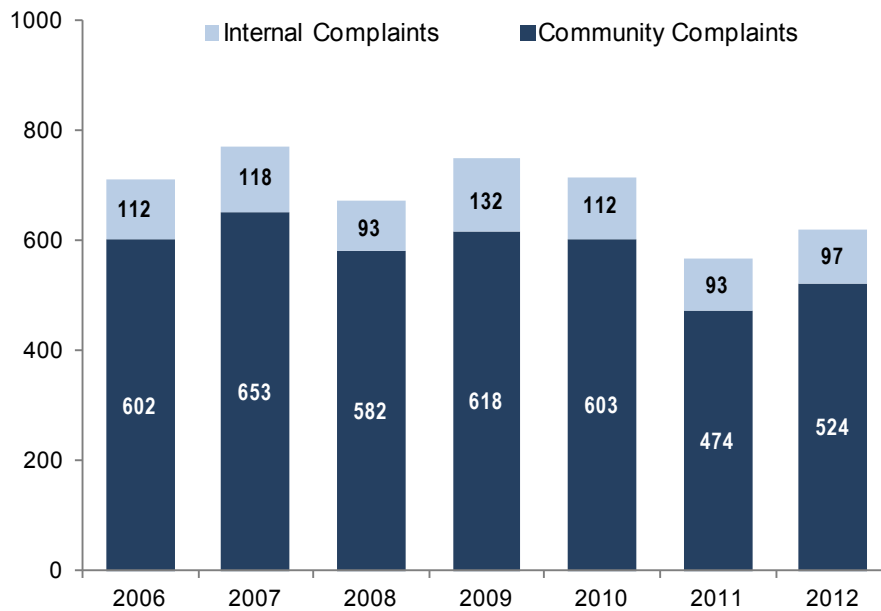
Following the preliminary review, IAB supervisors determine what policies and procedures have allegedly been violated, and make a screening or classification decision that determines how the complaint will be handled. Each complaint is classified as one of the following:

1. **Formal:** The complaint alleges misconduct under DPD policy and requires a full investigation and disciplinary review.
2. **Decline:** The complaint either does not state an allegation of misconduct under DPD policy, or the initial review revealed that the facts alleged in the complaint did not occur. No further investigation will be conducted.
3. **Informal:** The complaint states an allegation of a minor procedural violation not rising to the level of official misconduct. A supervisor is to debrief or counsel the subject officer and document this action.
4. **Service Complaint:** The complaint states a general concern with police policy or services, rather than an allegation of misconduct against a specific officer.
5. **Mediation:** The complaint states a less serious allegation of misconduct, such as a misunderstanding or discourtesy, and the complainant and officer might benefit from the opportunity to discuss their interaction. The complaint will not be further investigated, but will be scheduled for a facilitated discussion with a neutral mediator.
6. **Administrative Review:** The complaint merits review by IAB or a commander to determine if DPD procedure was violated and whether a formal investigation is necessary. Examples include shootings of wounded animals and police pursuits.

## Complaints Filed in 2012

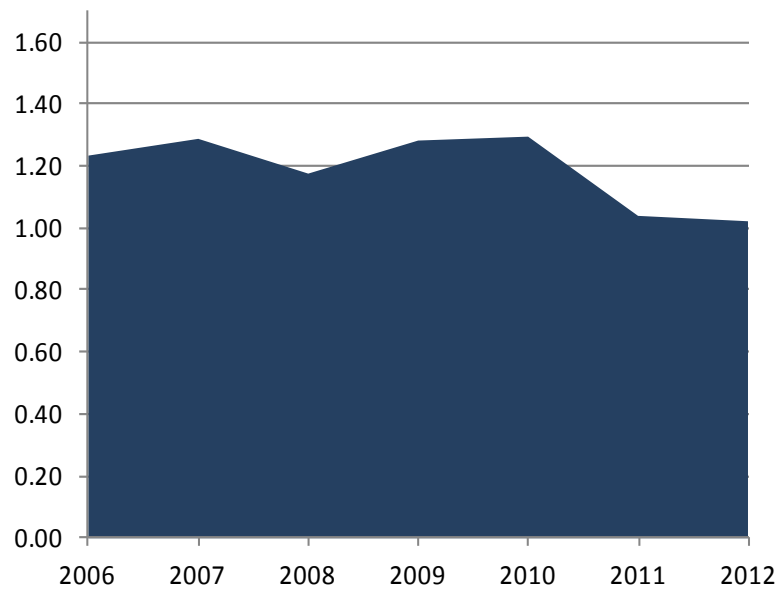
In 2012, 524 community complaints were recorded against Denver Police officers.<sup>1</sup> The DPD also recorded 97 internal complaints alleging officer misconduct (Figure 2.1). The total number of community and internal complaints recorded increased slightly between 2011 and 2012, but remains lower than any year between 2006 and 2010.

Figure 2.1: Complaints Recorded by Year



Despite the slight increase in complaints last year, there has been an overall downward trend in the rate of complaints per contact between officers and community members since 2010. Figure 2.2 reports the number of community complaints filed per 1,000 community-police contacts.<sup>2</sup> Overall, the complaint rate has dropped from 1.3 complaints per 1,000 community-police contacts in 2010 to 1.02 complaints per 1,000 contacts in 2012.

*Figure 2.2: Community Complaints per 1,000 Police-Community Contacts*



## Most Common Complaint Specifications

As in previous years, discourtesy was the most common specification recorded by IAB in 2012. *See* Table 2.1. There were several notable changes in patterns of specifications charged over the last several years. Responsibilities to Serve the Public, for example, was used frequently in the last three years—incrementally increasing from 1% in 2006 to approximately 18% in 2012. During the same period, use of Improper Procedure-Other declined from 25% in 2006 to 15% in 2012. Finally, the rate at which Biased Policing<sup>3</sup> was charged rose from 0% to 3% between 2008 and 2012.

Many of these changes are likely the result of changes in IAB data collection and classification practices, rather than underlying shifts in officer behavior or community allegations against police. As just one example, we know that community members filed complaints alleging biased policing prior to 2009. However, during that time, IAB staff recorded those allegations under a range of different specifications, rather than under a single biased policing category. Thus, one may not reliably infer that shifts in specification patterns represent actual changes in officer behavior or community perceptions of police.

One additional trend that merits comment relates to changes in force specifications. Between 2009 and 2012, the percentage of Inappropriate Force specifications dropped from 22% to 12% of all specifications charged. It is not clear, however, whether this pattern is driven by changes in officer conduct, shifts in community member reporting patterns, changes in IAB classification practices, or some other combination of factors.

### What is a “Specification?”

Many reports relating to police oversight and IAB processes talk about complainant “allegations.” Allegations are assertions, in a complainant’s own words, of particular kinds of purported misconduct by an officer.

DPD does not systematically track the detailed allegations made by complainants in its IAB database. 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.

The practical consequence of the decision to track specifications rather than allegations is that it is extremely difficult to determine whether changes in specification patterns over time are the result of changes in officer conduct or merely relate to shifts in the specification charging practices of DPD IAB.

DPD IAB is currently in the process of implementing a new case tracking database (called IAPro). Once implemented, the OIM intends to conduct a detailed evaluation of IAB's new database, data collection practices, and their implications for analyzing and reporting on patterns and trends in complainant allegations and specifications.

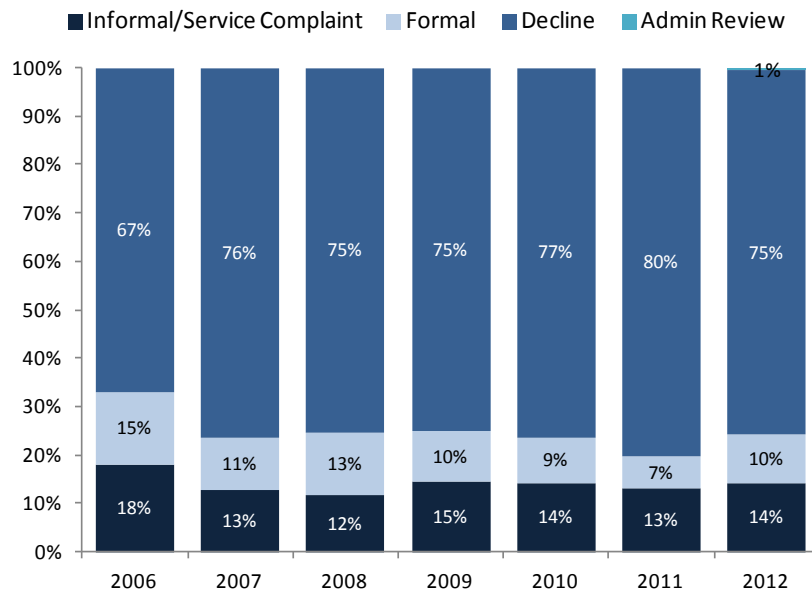
*Table 2.1: Most Common Specifications for Community/Internal Complaints*

Specification	2006	2007	2008	2009	2010	2011	2012
Discourtesy	26%	25%	23%	21%	21%	23%	23%
Responsibilities To Serve the Public	1%	2%	2%	10%	18%	16%	18%
Improper Procedure - Other	25%	24%	21%	19%	17%	19%	15%
Inappropriate Force	17%	19%	20%	22%	18%	15%	12%
Giving Name and Badge Number	2%	2%	2%	2%	3%	1%	5%
Biased Policing	0%	0%	0%	1%	1%	3%	3%
Failure to Make or File Reports	3%	3%	2%	2%	2%	3%	3%
Law Violation-Conduct Prohib. by Law	0%	0%	0%	1%	1%	1%	2%
Conduct Prejudicial	4%	3%	8%	3%	3%	3%	2%
Traffic Enforcement	0%	0%	0%	0%	0%	0%	2%
All Other Specifications	22%	21%	23%	18%	16%	16%	16%
Percent Total	100%	100%	100%	100%	100%	100%	100%
Number of Specifications	1,170	1,233	1,169	1,375	1,328	935	1,116

## Community Complaint Screening Decisions

The majority of community complaints are declined after the intake investigation. Between 2007 to 2012, approximately 75% to 80% of community complaints were declined after initial investigation. During the same period, roughly 12% to 18% of the cases were treated as informal investigations or service complaints. Approximately 10% of the cases were formally investigated.<sup>4</sup>

Figure 2.3: Screening Decisions on Community Complaints

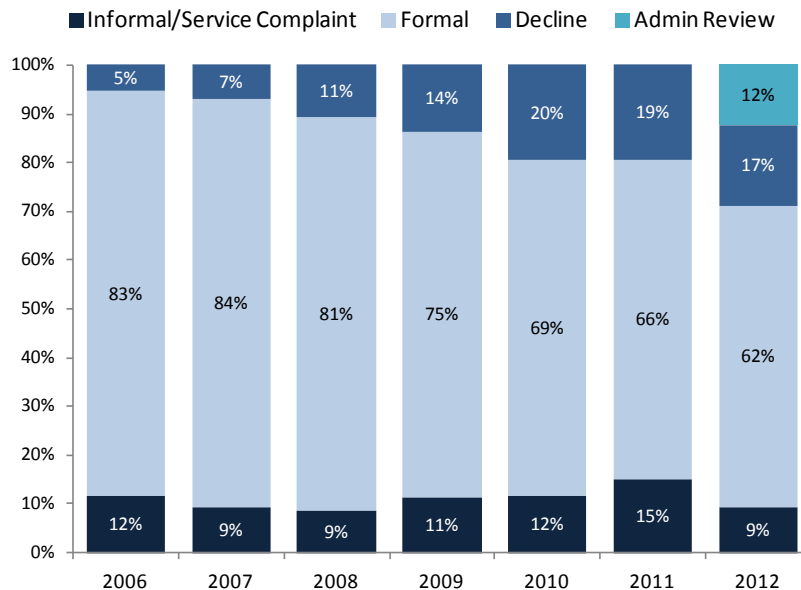


## Internal Complaint Screening Decisions

In contrast to the high decline rate for community complaints, the majority of internally-generated complaints (i.e., complaints filed by a DPD officer, supervisor or generated by IAB) are formally investigated. Between 2006 and 2012, however, the proportion of internal complaints formally investigated dropped by roughly 21 percentage points and there was a nearly concomitant increase in the percentage of declined internal complaints.

One notable statistical pattern is the appearance of “administrative review” screening decisions on internal complaints in 2012 (12%). Cases classified as requiring “administrative review” are those cases that DPD command staff or IAB believe merit review, but where there may not be specific allegations of misconduct. Examples can include animal shootings or police pursuits. These types of cases were often previously classified as declines. However, in 2012, IAB created a separate administrative review screening category in their database. Thus, the spike in administrative review cases is the result of changes in IAB data collection practices rather than changes in investigative procedures or officer conduct.

Figure 2.4: Screening Decisions on Internal Complaints



## Declined Complaints

Complaints that allege serious misconduct require the dedication of significant investigative resources. Other complaints are filed due to a misunderstanding of police policy and training, or may allege behavior that does not constitute misconduct under DPD policy. Yet other complaints are filed by community members who are struggling with mental illness or who present allegations that are simply untrue. Although all types of complaints demand an initial review, not all require formal investigation.

OIM staff review each declined case prior to case closure. If the OIM concludes that the intake investigation was thorough and complete, and that the decline decision was reasonable, the case is closed.<sup>6</sup> If the OIM concludes that additional investigative work is necessary, OIM staff will communicate those recommendations to an IAB supervisor. Those recommendations may include requests for additional interviews, collection of additional documentation, or for performance of a field canvass for additional witnesses. In some circumstances, OIM staff may request that a decline be reclassified as a formal or informal investigation. If IAB command staff opt not to accept the OIM's recommendation, the OIM may present the disagreement to the Chief of Police and, if necessary, to the Department of Safety for a final decision.

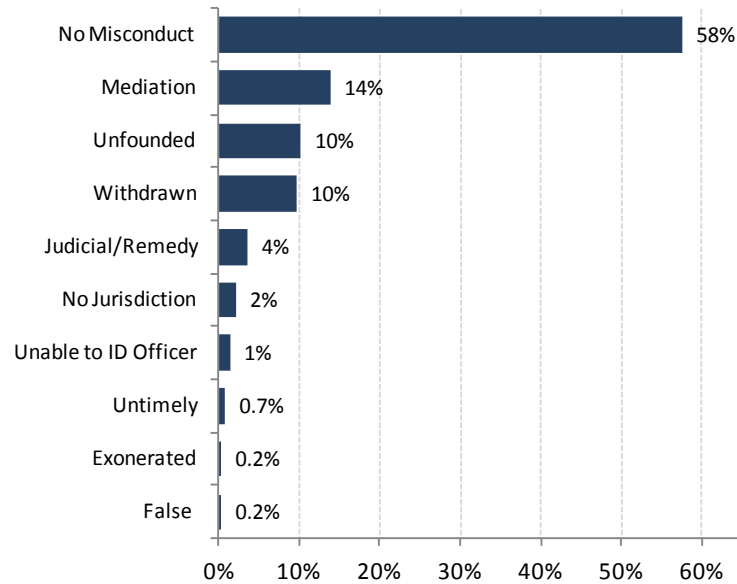
### Example Case: OIM Recommends Formal Investigation of a Declined Case

Officers were chasing a fleeing suspect on foot. Immediately before the suspect was apprehended, he climbed over a fence and a folding knife dropped from his pants to the ground near him.

A sergeant was called to the scene to assess the situation. In the sergeant's paperwork related to the use of force during the arrest, the sergeant stated that the suspect threatened officers with the knife. This statement was not accurate - the suspect never threatened officers with the knife.

The case was initially classified as a "decline," meaning that it would not result in disciplinary review or disciplinary action by DPD. The OIM, however, believed that the inaccurate statement, which incorrectly implicated the suspect for threatening the police with a weapon, was a serious matter. We recommended that further investigation be conducted and the DPD agreed to do so. Because the investigation ultimately revealed that the sergeant's inaccurate statement appeared to be the result of carelessness rather than deceit, he was disciplined but not terminated.



*Figure 2.5: Reasons for Declining DPD Complaints*

## Informal Investigations

When a complaint alleges only a minor policy or procedural violation that is unlikely to result in discipline, IAB supervisors have the option of assigning the complaint to be handled as an “informal.” When a case is assigned as an informal, it is delivered to the subject officer’s supervisor, who is obliged to investigate and discuss it with the involved officer(s). The supervisor may also address the rules and procedures that pertain to the issues in the complaint, the complainant’s perception of the officer’s behavior, and/or alternative approaches the officer could have used. This may also be thought of as case “triage,” where relatively minor allegations are handled by an officer’s supervisor rather than tying up IAB investigative resources. When a complaint is handled as an informal, the OIM reviews the entire case, including screening decision, timeliness of case handling, and the completed complaint resolution letter.

### Example Case: A Fourth Amendment Policy Recommendation

Recommendations to update or improve DPD policy can come from OIM review of formal, informal, or declined complaints.

A police sergeant was called to investigate a street fight between civilians that left one civilian injured. The sergeant observed that a witness to the fight had a digital camera. The sergeant suspected that the camera contained pictures of the fight, and asked the witness for permission to review the photos. The witness refused. The sergeant seized the camera, reviewed the photos with the assistance of the witness, found no criminal evidence, and returned the camera to the witness. A complaint was filed with the OIM and the Chief of Police regarding the seizure of the camera without a warrant.

The IAB investigation determined that the sergeant had acted in good faith and within existing policy. However, the case prompted the OIM to review DPD policy on the seizure of cameras without a search warrant. The review revealed that DPD policy was outdated and did not provide clear guidance on when photographic equipment may be seized without a warrant, and by whom.

The OIM recommended that the DPD adopt a new policy on warrantless seizure of cameras, guided by federal law. The DPD is in the process of adopting an updated directive that will provide greater guidance to officers who encounter this situation in the future.

## Service Complaints

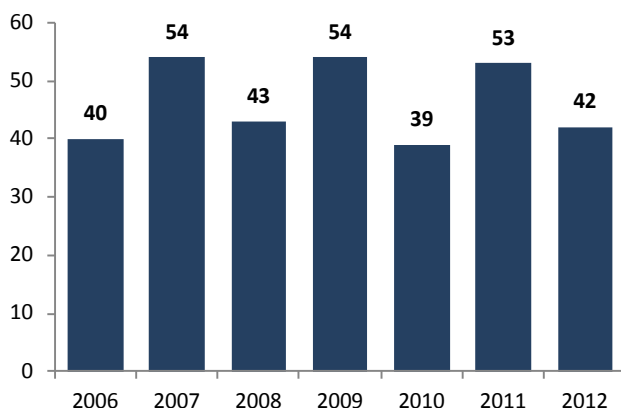
On occasion, community members file complaints that raise general concerns about DPD policy, procedure, or training, rather than specific allegations of misconduct. In those instances, IAB supervisors refer the complaint to the appropriate commander for their evaluation and action. The OIM also reviews service complaints prior to case closure.

## 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 that allows community members and officers to sit down with a professional mediator in a confidential, neutral, and non-confrontational setting to discuss their issues and concerns.

The goal of mediation is not for one side to prevail over the other, or to assign blame, but for each party to be able to talk about the events that led to the complaint and listen to the other's perspective. Both the OIM and IAB must agree that a case is suitable for mediation. The complainant and the officer must also agree to mediate – mediation is entirely voluntary for all involved.

*Figure 2.6: Completed Community-Police Mediations by Year Complaint Recorded*



### Example Case: Threatened Shooting not Eligible for Mediation

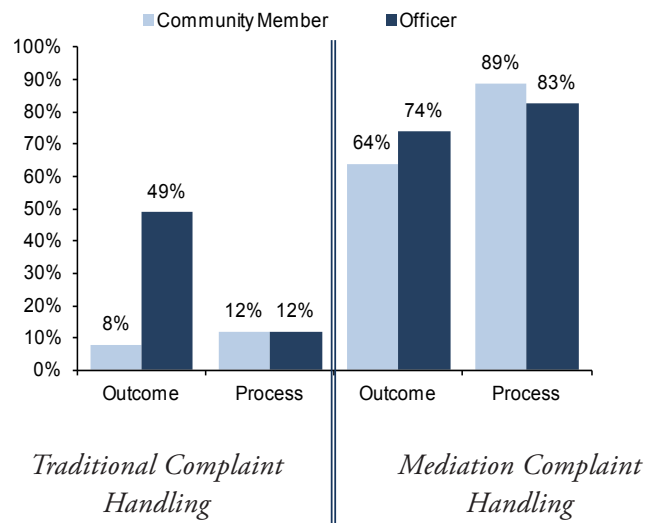
Although mediation is often a positive experience for both officers and complainants, some complaints allege conduct that would not be appropriate for mediation.

A person placed a garage sale sign onto his neighbor's front lawn without permission. The neighbor, who was an officer, angrily took the sign back, and the two neighbors had a heated argument. As the officer left to return to his own house, he turned and told the neighbor that if he ever set foot on the officer's property again, the officer would shoot him. Independent witnesses, who knew that this was an officer, heard this comment and expressed concern.

An administrative case was opened by the DPD, and it was initially evaluated as a good candidate for mediation. Upon further review, the OIM assessed that the threat of shooting the neighbor was serious enough that it merited disciplinary review, and the DPD agreed to take the case out of mediation. The OIM and the DPD initially handled the case by addressing only whether the officer had violated the criminal law by making his threatening comment. However, the Independent Monitor recommended that the officer's conduct be reviewed for other policy violations, as his threat was unprofessional and brought the DPD into disrepute with all of the neighbors who heard him make it. The DPD ultimately agreed, and the officer was reprimanded for threatening his neighbor.

Denver’s mediation program often serves as a learning opportunity for both complainants and officers. Mediation has helped complainants to learn about police policy and training. Similarly, officers have benefited by listening to complainant concerns and learning to see their own actions through the eyes of community members. Mediation does not require either party to agree with the other, nor for any apologies to be made. It does, however, give officers a chance to develop further insight into how some community members perceive encounters with the police. Both complainants and police officers consistently report much higher rates of satisfaction with mediation than with the traditional investigative process.

*Figure 2.7: Mediation Process and Outcome Satisfaction for Officers and Community Members*



### Complainant Comments on Mediation in 2012

“Mediation was fair, compassionate, courteous and understanding on both sides. Unbiased handling of the facts and statements made during the incident.”

“I was able to understand police procedure and see the officer as a person and not just a scary person with a weapon.”

“Mediation is a non-combative way to discuss the situation and understand.”

### Officer Comments on Mediation in 2012

“With mediation, I get a chance to explain my perspective and really be listened to.”

“It was good for me to be able to see where people I interact with come from and how they perceive citizen/police interactions.”

“We were able to address both sides of the issue away from the scene after both parties had had time to think about the situation.”

Denver’s OIM/DPD Complaint mediation program is one of the most active police-community mediation programs in the country (Table 2.2). While New York City’s Civilian Complaint Review Board completed the largest number of mediations (165), Denver had one of the highest mediation rates, with approximately 30.4 mediations being completed per 1,000 officers.

*Table 2.2: Mediation Rates Per Officer for U.S. Police Departments in 2012 Conducting Three or More Officer–Community Member Mediations*

City	Agency	Sworn Officers	Mediations Completed	Mediation Per 1,000 Officers
Denver	Office of the Independent Monitor	1,383	42	30.4
San Francisco	Office of Citizen Complaints	2,145	62	28.9
Washington, D.C.	Office of Police Complaints	3,865	35	9.1
Minneapolis	Civilian Police Review Authority	840	6	7.1
Aurora	Community Mediation Concepts	646	4	6.2
New York	Civilian Complaint Review Board	34,510	165	4.8
Portland	Independent Police Review Division	944	3	3.2
Kansas City	Office of the Independent Monitor	1,363	3	2.2

Notes: Washington D.C. Office of Police Complaint's mediation counts are for the fiscal year October 1, 2011 to September 30, 2012. All other figures are based on the 2012 calendar year.

## Formal Investigations

The monitoring of formal investigations is among the most important work of the OIM. Formal investigations are conducted on those cases that include allegations of misconduct that, if true, would result in disciplinary action. All formal investigations are either “actively monitored” by the OIM or thoroughly reviewed at the conclusion of the investigation.

The OIM “actively monitors” cases that contain extremely serious allegations of misconduct, cases in which community safety may be jeopardized, or other cases that the OIM believes require independent civilian oversight during the investigation.<sup>7</sup> Active monitoring is resource-intensive and thus, the OIM is selective about the cases it actively monitors. When the OIM actively monitors a case, an OIM monitor will observe and participate in interviews, consult with the investigators and their supervisors on what direction the investigation should take, and review evidence as it is collected. When the investigation is completed, the OIM assesses the case as a whole to determine whether any additional investigative steps need to be taken. If the OIM certifies the investigation as “thorough and complete,” the investigation is given to the Conduct Review Office (“CRO”) for disciplinary findings.

### Example Case: The OIM Intervenes to Clear an Innocent Officer

A civilian filed a complaint alleging that an unidentified desk officer was discourteous to him at a district stationhouse. During the resulting investigation, a possible subject officer was presented with information suggesting that he may have been working at the desk during the incident. The officer, however, had no memory of the incident or of the complainant. To explain this apparent gap in his memory, the officer stated that he had been taking medication on the date of the incident that may have interfered with his memory.

In fact, other evidence revealed that the officer had actually been on patrol, never interacted with the complainant, and had not, in fact, been on medication on the date of the incident. The officer made several inaccurate statements during the investigation, which can be a serious violation of DPD’s disciplinary matrix. However, the evidence showed that they were honest mistakes, rather than knowing attempts to mislead. Therefore, the OIM strongly recommended that the Department unfind its specification for making misleading or inaccurate statements to reflect the officer’s innocence of any wrongdoing. The DPD ultimately agreed to unfind this specification, leaving the officer’s record clear related to this incident.

If the OIM chooses not to actively monitor an investigation, OIM staff will review the case file upon completion.<sup>8</sup> If the OIM determines that the investigation was not thorough or complete, the OIM will recommend corrective investigative steps to IAB. If the OIM certifies the investigation as thorough and complete, the case passes to the CRO for disciplinary findings.

### Example Case: The OIM Pushes for a Broader Investigation of Official Dishonesty

An officer wrote multiple traffic citations while working a regular police shift. However, the officer submitted false paperwork claiming that the citations were written during overtime hours. An investigation was initiated, and the officer ultimately resigned from the Denver Police Department.

Several other officers were working on a related assignment. Based on the evidence obtained in the investigation, the OIM had concerns about these officers, and requested that the investigation be broadened to also examine their conduct. The DPD ultimately agreed. This broader investigation revealed that two other officers had engaged in similar behavior, though they did not lie during the IAB investigation. These officers were ultimately disciplined but not terminated for their violations of policy and procedure.

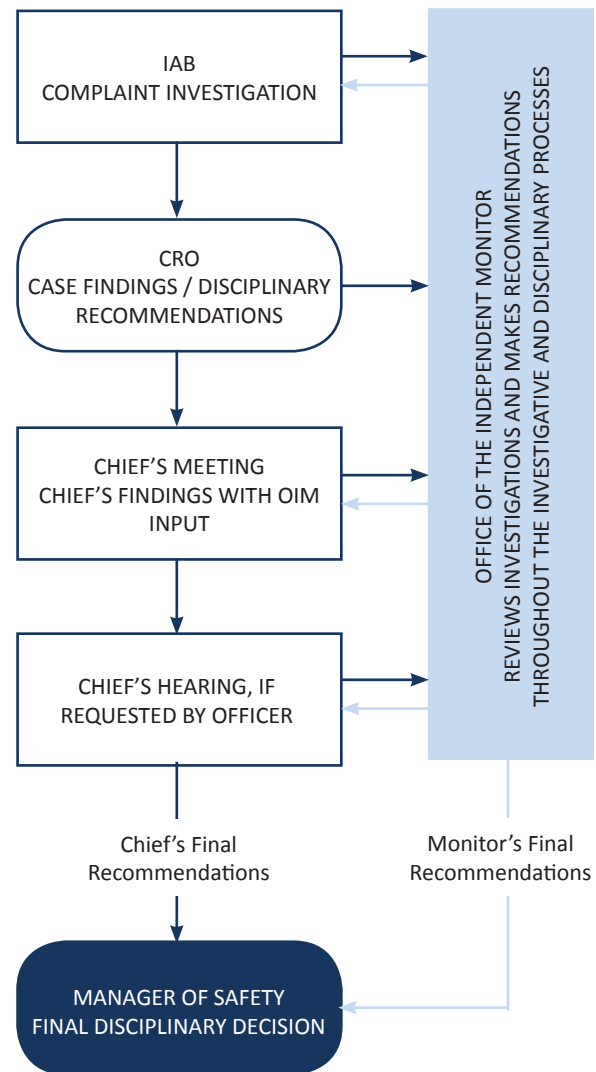
If the OIM recommends further investigation on a case, the OIM will contact an IAB supervisor to discuss the recommendations. The supervisor can either agree to conduct the additional investigation or refuse. In the case of a refusal, the recommendation may be escalated to the IAB Commander and to the Chief of Police or Department of Safety, if necessary. The ordinance enabling the OIM to review and participate in investigations allows the OIM to make recommendations only – the OIM does not have authority to require DPD to take recommended investigative steps.

## Post-Investigation Disciplinary Process

After a case is investigated by IAB and reviewed by the OIM, the case is sent to the Conduct Review Office (“CRO”), headed by Commander Michael Battista. This unit reviews each case, determines if there were any violations, and, if so, whether the Chief of Police should recommend discipline. The CRO is bound to apply the DPD disciplinary matrix, as are all individuals and entities with authority to make disciplinary recommendations. 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 four possible findings:

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

### Disciplinary Process for Sustained Complaints





## Sustained Cases

If the CRO determines that a policy violation has occurred and sustains one or more specifications, the CRO also recommends the type of discipline that should be imposed. DPD's disciplinary matrix generally allows for five overall types of punishment (depending on the specification, severity of the offense, and the presence of mitigating or aggravating factors).

- ◆ A **reprimand** can be either oral or written, and is the lowest form of discipline. The DPD maintains records of both oral and written reprimands.
- ◆ **Fined time** requires an officer to work set amounts of time without compensation.
- ◆ A **suspension** requires an officer to forfeit all police powers (including the privilege of wearing the police uniform) and suspends the officer's salary and credit towards retirement for a specified number of calendar days.
- ◆ A **demotion** reduces an officer's civil service rank.
- ◆ **Termination** removes an officer from the classified service.

If the CRO recommends that discipline be imposed, a Chief's Meeting will be held.<sup>9</sup> At this meeting, the Chief of Police, the Independent Monitor or his representative, several DPD commanders and a Deputy Manager of Safety discuss the case and provide input to the Chief to assist him in finalizing his disciplinary recommendation, if any, to the Department of Safety.

If the Police Chief decides to recommend discipline greater than a written reprimand, the officer has an opportunity to request a Chief's Hearing. If the officer requests a Chief's Hearing, the officer and his or her representative can make a presentation describing

### Changes to the DPD Disciplinary Process in 2012

The DPD disciplinary process changed in a number of important ways last year. Previously, formal investigations were reviewed by multiple supervisors, each of whom made his or her own recommendation on case outcome. For example, cases would sometimes be reviewed by a subject officer's lieutenant, a captain and/or commander, and then a division chief. If the case involved a recommendation of significant discipline, the case would also be reviewed by the Chief, the OIM, and the Department of Safety.

Recognizing the negative impact that this multi-stage review had on the timeliness of the disciplinary process (and on the workload of district commanders), the DPD made several significant changes. As an initial step, former Police Chief Whitman and former Manager of Safety Garcia eliminated the use of Disciplinary Review Boards in 2011. Some months later, Chief White created the CRO, which now conducts the case review that was previously performed by multiple links in the subject officer's chain of command.

Our initial assessment of these changes is positive - they have certainly improved the timeliness and efficiency of the disciplinary process. We will continue to monitor the work of the CRO and DPD's new disciplinary process in 2013.

any facts that mitigate or explain his or her actions. Not all officers request a Chief's Hearing. Some officers accept the Police Chief's recommended discipline, at which point the case is closed (upon the Department of Safety's approval of the Chief's recommended discipline).

After the Chief's Hearing, the OIM and the Chief of Police provide their final and separate recommendations to the Department of Safety, which has the exclusive authority to impose discipline on officers, and makes the final decision on each case rising above the level of a reprimand.<sup>10</sup> The Department of Safety has 15 days from receipt of the Chief's disciplinary recommendation to approve, modify, or disapprove the Chief's recommendation. Once the Department of Safety makes its final decision, the subject officer may appeal to the Civil Service Commission if s/he is dissatisfied with the decision.<sup>11</sup>

### Cases that are Not Sustained

If the CRO recommends findings of unfounded, exonerated, or not sustained, the OIM may agree or disagree. If the OIM concludes that the CRO's recommended findings are reasonable, the case will be closed, with a letter delivered to the complainant explaining the reasons for the findings.<sup>12</sup> If the OIM believes that the CRO's findings are unreasonable, the OIM communicates its concerns to the Police Chief at a Chief's Meeting, and if necessary to the Department of Safety, which has the final authority to resolve the issue.

### Example Case: Retaliatory Force is Inappropriate Force

Officers responded to a report of a hit and run accident and made contact with a man whose vehicle had been struck by the hit and run driver. The victim of the accident was intoxicated and belligerent, and he was pacing back and forth and arguing with the officers while they attempted to gather information.

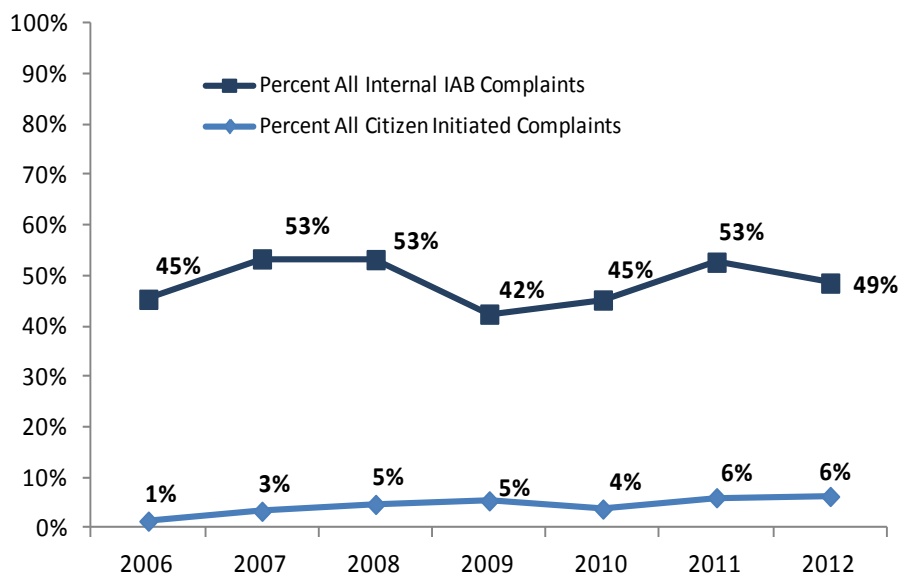
The officers decided to restrain him, and they grabbed his hands and held his arms behind his back. When an officer attempted to calm the man down, the man spit into this officer's face. The officer released his grip on the man's shirt and punched the man squarely in the face, even though the man was still restrained by other officers. The man dropped to the ground where he was handcuffed. He had cuts and abrasions to his lips and face.

After the investigation, the OIM became concerned with the apparent direction of the review of this use of force. As such, the OIM strongly recommended that the Department of Safety sustain an allegation of inappropriate force against this officer for the use of retaliatory force against a restrained person. The Department of Safety did sustain the force allegation, and the officer was suspended for his conduct.

## Complaints with Sustained Specifications

As noted above, a complaint may contain several allegations that result in multiple specifications being charged against an officer. Each specification results in a discrete finding. As Figure 2.8 demonstrates, since 2008, between four percent and six percent of closed community complaints had an allegation that was sustained. In comparison, a much larger percentage of internal complaints resulted in one or more sustained findings, with 49% of the internal complaints closed in 2012 having at least one sustained finding.

*Figure 2.8: Community/Internal Complaints That Resulted in One or More Sustained Specifications*



## Patterns in Discipline

Table 2.3 reports the discipline imposed on officers for sustained allegations by the Police Chief (for reprimands) or the Department of Safety (for any discipline greater than a reprimand) from 2008 through 2012. Note that these numbers may change as the result of appeals filed with the Civil Service Commission.

The most frequent type of discipline imposed on Denver police officers in 2012 for community/internal complaints was fined time (35 officers) followed by written reprimands (31 officers) and suspensions without pay (22 officers). Two officers were terminated by the Department of Safety in 2012.

*Table 2.3: Discipline Imposed by Year of Case Closure*

Discipline Type	2008	2009	2010	2011	2012
Termination	1	1	3	10	2
Resigned/Retired Prior to Discipline	7	7	3	1	4
Suspension Without Pay	9	17	13	29	22
Fined Time	15	30	31	40	35
Written Reprimand	40	37	36	37	31
Oral Reprimand	22	27	12	10	9
<b>Total</b>	<b>94</b>	<b>119</b>	<b>98</b>	<b>127</b>	<b>103</b>

## Cases Involving Dismissal, Resignation, or Substantial Imposition of Discipline in 2012

Below is a description of the cases in which the Department of Safety ordered termination, suspension for 10 days or more, or the officer resigned prior to the issuance of a disciplinary order.

### Terminations

- ◆ Two officers were terminated after providing false information to another police department. The officers called the other department to initiate a welfare check on a fellow officer as a practical joke. One of the officers subsequently made untruthful statements to cover up the misconduct during a criminal trial, and both officers lied during an IAB investigation. The Department of Safety terminated the officers for Commission of a Deceptive Act and also suspended both officers for thirty days for Law Violation-Aggravated Conduct Prohibited by Law. Both officers have appealed to the Civil Service Commission.

### Resignations

- ◆ An officer was investigated for falsifying grant log sheets and failing to work the hours reported. The officer resigned from the Denver Police Department.
- ◆ An officer sent a number of inappropriate text messages to an alleged domestic violence victim the officer met during a 911 call. Some of the messages were sexual in nature. During the IAB investigation, several videos were found on the officer's phone that captured the officer using his authority to encourage community members to engage in demeaning and potentially harmful conduct. The officer resigned before the imposition of discipline.
- ◆ An officer resigned after he pled guilty to a domestic violence-related charge in another county.
- ◆ An officer resigned after an investigation was initiated into possible criminal behavior by the officer.

## Suspensions for Ten or More Days

- ◆ During a traffic stop, a sergeant released a firearm to a person who appeared to be visibly intoxicated. The sergeant omitted information about the firearm from official statements and reports. The sergeant also lied during the IAB investigation about the reasons for omitting this information. Finally, the sergeant was also found to have instructed a subordinate officer to conceal information about the discovery of the firearm from others. The Department of Safety reached a negotiated settlement agreement whereby the officer was demoted and suspended for 10 days for this misconduct. The settlement agreement also included penalties held in abeyance, not to be imposed unless the sergeant commits other misconduct within the next year. The penalties held in abeyance included termination, a 30 day suspension, and 24 hours of fined time.
- ◆ An officer disobeyed an order by secretly recording a disciplinary hearing and a private conversation with the Chief of Police, against orders. The officer's hidden recording was discovered in a later civil court proceeding. The officer received a 10-day suspension for disobedience of an order.
- ◆ An officer received a 14-day suspension for driving under the influence after he was involved in a single vehicle accident outside of Denver. The officer had a blood alcohol content (BAC) of .163.
- ◆ An officer received a 42-day suspension for subjecting a civilian employee to unlawful sexual harassment while working at the Denver International Airport. This was the officer's third reported instance of sexual harassment in a 24 month period.
- ◆ An off-duty officer (in uniform) was disciplined for exiting his vehicle and confronting the driver of another vehicle over an alleged traffic infraction. During the incident, the officer yelled and directed profanity at passengers in the vehicle, one of whom was recording the incident. The officer was suspended for 16 days.
- ◆ An officer was suspended for 10 days after being arrested for Driving Under the Influence (BAC of .117) by the Colorado State Patrol outside of Denver.
- ◆ A detective was disciplined for inappropriately assigning himself to a case without authorization when the detective had an off-duty, personal interest in the case. The detective allegedly harassed witnesses in the investigation, and requested and received overtime for his work on

the investigation. The detective was suspended for 10 days for conduct prejudicial and received two fined days for improper procedure.

- ◆ An officer received significant discipline in two separate cases. In the first case, the officer, who was off-duty and extremely intoxicated, insulted, ridiculed, and shoved a homeless man to the ground. The officer made a sign stating “Don’t feed the Bums!!” and held it out for drivers to read for approximately an hour while standing next to the homeless man. He also took a picture of himself and posted it to his Facebook page for others to see. The officer was suspended for 42 days for the misconduct. In a second incident on a different date, the officer went on a drinking binge, then reported to the DPD that he was ill and not available for work on two separate work days. The Department of Safety suspended the officer for an additional 42 days for the second incident.
- ◆ An officer was disciplined for being disrespectful toward a supervisor and openly disregarding a direct order. The officer had an extensive history of prior disciplinary infractions. The officer was suspended for 10 days.
- ◆ An officer was disciplined for failing to report several incidents in which the officer observed another officer engage in inappropriate conduct toward community members. This officer received a 10-day suspension.

## Timeliness

Timeliness in the investigation of complaints is critical to effective self-policing and for ensuring public and officer confidence in the complaint process. Allowing administrative investigations to languish impairs the ability of a department to quickly correct or deter officer misconduct, impacts officer morale, and undermines the public's trust. In a survey administered to Denver's complainants in 2007, 22% of the respondents were satisfied that their complaint was handled efficiently, and 32% of officers agreed that complaints were investigated in an efficient manner.<sup>13</sup> The OIM has discussed concerns about timeliness in the handling of DPD misconduct complaints in every OIM annual report issued since 2005.

In March 2011, the OIM observed that the delays in the investigative and disciplinary processes were not acceptable and recommended that "...the Manager of Safety and Chief of Police create a working group to evaluate the overall disciplinary process, including the use of the Disciplinary Review Boards in this process. The Department needs to critically evaluate the process to figure out whether there is a better way to impose discipline and do so in a more timely fashion."<sup>14</sup>

We are happy to report that since the time of that observation, the DPD has made a number of substantial changes to the investigative and disciplinary processes with the goal of improving efficiency. Some of the changes we believe have had a positive impact on investigative and disciplinary timeliness are:

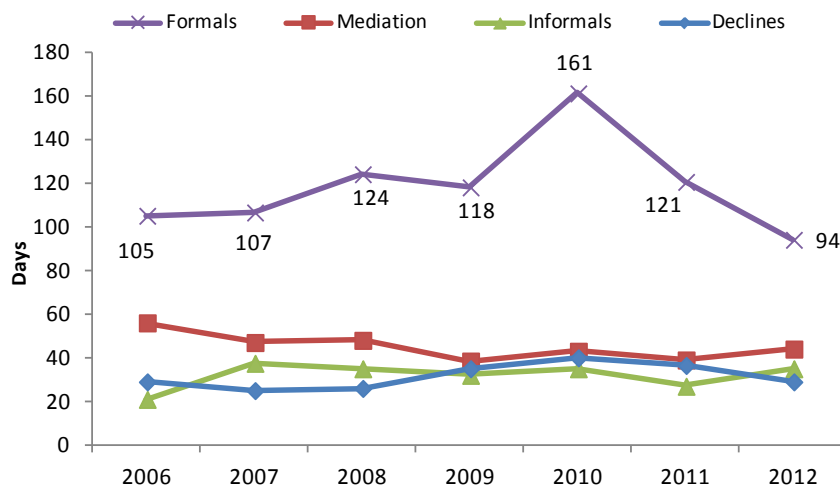
- ◆ In April 2011, then Chief Gerald Whitman and Manager of Safety Charlie Garcia eliminated the use of Disciplinary Review Boards, which had been one of the slowest parts of the disciplinary process.
- ◆ In 2012, Chief White appointed Commander Klee to head IAB. Commander Klee imposed on her sergeants a thirty-day goal for completing most investigations. This decision has significantly improved the timeliness of IAB investigations.
- ◆ In April 2012, Chief White created the CRO, which streamlined the disciplinary process and eliminated several layers of review.



- ◆ In March 2012, a new Deputy Manager of Safety position was created, and Jess Vigil was hired to help oversee the disciplinary phase of DPD misconduct cases. Deputy Manager Vigil now becomes involved in cases as soon as IAB investigations are completed, enabling the Department of Safety to issue disciplinary orders much more quickly than in years past.

As a result of these changes, the median<sup>15</sup> time for processing fully investigated complaints dropped from 161 days in 2010 to 94 days in 2012.<sup>16</sup> This represents a 42% decline in the median number of days it took to process formal investigations and make findings. The amount of time it has taken to resolve mediations, declines, and informals was fairly consistent between 2006 and 2012. Note that this chart includes all of the time it took to process cases and includes the time taken by all complaint process actors, including the DPD, the Department of Safety, and the OIM.

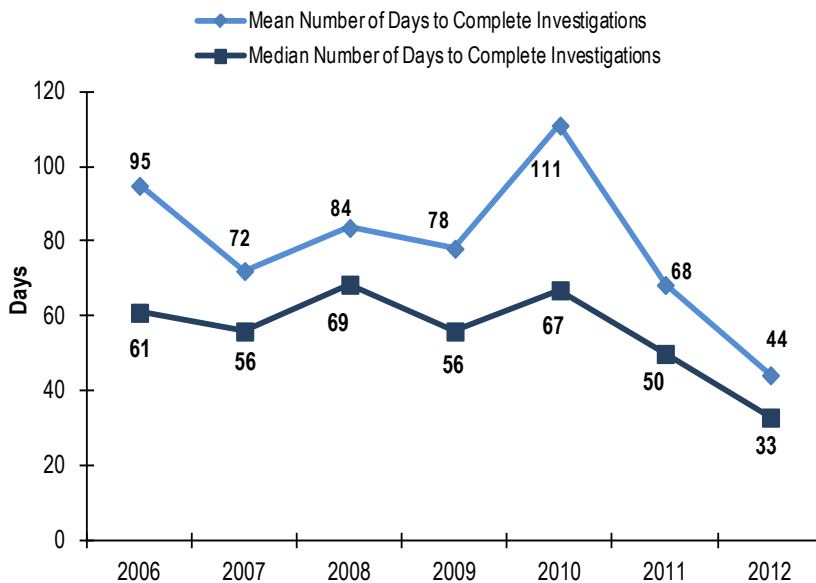
*Figure 2.9: Median Days from Open to Close for All Community/Internal Complaints By Case Type and Year Received*



Since Figure 2.9 reports the timeliness of both the investigative and disciplinary phases of case handling, it is important to know whether the gains in timeliness resulted from increased efficiency in IAB investigations or in DPD's disciplinary review. The answer, as it turns out, is both.

Figure 2.10 demonstrates the number of days required to complete the investigative stage on formal cases (excluding the time for findings and disciplinary review).<sup>17</sup> In 2010, the median number of days required to complete investigations was 67 days. In 2012, this number dropped to 33 days, a 51% decline in the number of days it took the DPD to complete formal investigations.

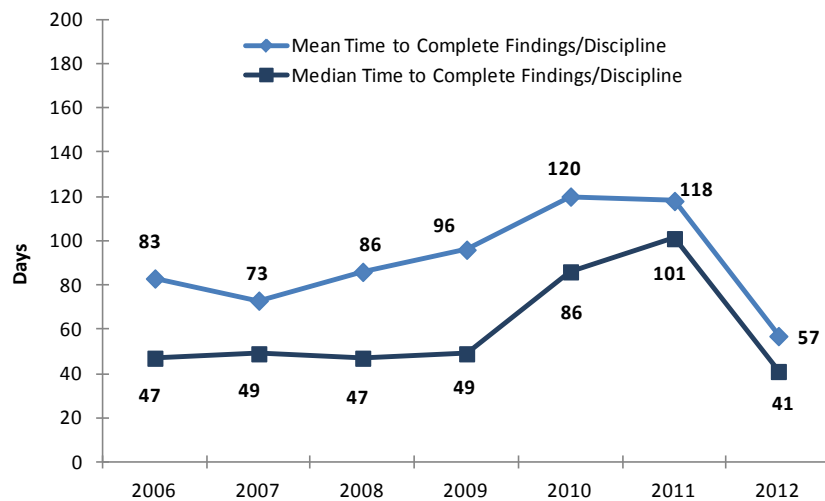
*Figure 2.10: Mean and Median Number of Days to Complete IAB Investigations of Formal Cases*



There was also significant improvement in the timeliness of the disciplinary stage in 2012 (i.e., the timeliness of the process after full investigations are completed), which we largely attribute to the DPD’s changes to the discipline process.<sup>18</sup> In 2011, it took a median of 101 days for the DPD and the Department of Safety to issue findings/discipline and close cases. In 2012, that number dropped to 41 days, a significant improvement.

It must be noted that due to the significant OIM staffing shortages of 2012, including being without a permanent Monitor for approximately eight months, it took longer for the OIM to review cases and make recommendations on findings and discipline in 2012 than in previous years. The OIM’s median review time was 20 days in 2012. Unfortunately, OIM review time was not precisely tracked prior to 2012. As such, we were able to remove the amount of time it took the OIM to make findings and disciplinary recommendations for 2012, but not for earlier years. As a result, the 2012 timeliness figures for findings/discipline are not fully comparable to figures reported for previous years.

*Figure 2.11: Mean and Median Number of Days for Post-Investigation Findings and Discipline*



We applaud the DPD and the Department of Safety for working to address the timeliness issues associated with the investigative and disciplinary processes and for making the changes discussed above. We look forward to working with the DPD to ensure that case handling is both timely and thorough using these new processes.

## 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 2012, followed by a list of definitions for each type of commendation. See Appendix C of this report for individual examples of commendations awarded to members of the DPD in 2012.

*Table 2.4: Commendations Awarded to DPD Officers in 2012*

Commendations	Number	Percent
Commendatory Action Report	214	34.5%
Official Commendation	188	30.3%
Letter of Appreciation	51	8.2%
Commendatory Letter	39	6.3%
STAR Award	32	5.2%
Medal of Valor	22	3.5%
Department Service Award	11	1.8%
Life Saving Award	11	1.8%
Leadership Award	8	1.3%
Merit Award	8	1.3%
Citizen Letter	7	1.1%
Community Service Award	7	1.1%
Medal of Honor	5	0.8%
Citizens Appreciate Police Award	3	0.5%
Purple Heart	3	0.5%
Other than DPD Commendation	2	0.3%
Chief's Unit Citation	1	0.2%
Corporal of the Year	1	0.2%
Detective of the Year	1	0.2%
Family Member Award	1	0.2%
Lieutenant of the Year	1	0.2%
Officer of the Year	1	0.2%
Sergeant of the Year	1	0.2%
Technician of the Year	1	0.2%
Top Cop	1	0.2%
Distinguished Service Cross	0	0.0%
<b>Total</b>	<b>620</b>	<b>100.0%</b>

Table 2.5: 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.

## DPD Monitoring Endnotes

1. The data for this chapter were obtained from the Denver Police Department's Internal Affairs records management database (CUFFS II). The OIM is not a CUFFS II administrator and has little control over data entry into the database. Moreover, the CUFFS II database has a number of significant issues that can affect the usefulness and quality of statistics relating to DPD IAB processes. Since these data were drawn from dynamic, live databases, the reported complaint, allegation, and timeliness numbers will fluctuate slightly over time and are subject to revision until all of the cases for a particular year are investigated and closed. The figures reported in this chapter only include complaints against sworn DPD officers. Citizen and internal complaint 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 does not monitor scheduled discipline and has not reviewed the quality of data entry for these cases. Thus, scheduled discipline complaints are not included in this report.
2. Community contact is operationalized here as the number of Class 1 (Citizen-Initiated) and Class 2 (Officer-Initiated) calls for service responded to by DPD officers. Data relating to calls for service was provided by the Denver Police Department Data Analysis Unit. This figure does not include duplicate calls, information calls, and 911 hang-ups where a DPD officer did not respond. This figure does not include police-community contacts that were not recorded by DPD officers.
3. In this table, Biased Policing is measured as all complaint specifications where an OMS code of 118 (biased policing) was recorded in the IAB database.
4. Some cases are formally investigated, then changed to a decline if it is determined by IAB that no misconduct occurred.
5. The OIM also has the ability to decline cases. However, since the OIM does not conduct intake investigations on complaints, the OIM rarely exercises that authority.
6. However, records relating to declined cases are maintained in the IAB database and are included in the DPD's early intervention system.
7. Based on the OIM's founding ordinance (Article XVIII), active monitoring is required in a number of circumstances, including: (1) all DPD and DSD officer-involved shootings; (2) in-custody deaths; (3) duty-related incidents that result in serious bodily injury; (4) incidents where an officer or deputy is under investigation for a felony, offenses against the person (e.g., homicide, assault, kidnapping, and unlawful sexual behavior), or crimes where the use or threat of force is an element of the offense (including misdemeanors and local law violations). Ord. No. 730-04, §1, 10-4-04

8. Note that the OIM does not review or monitor scheduled discipline cases.
9. Except in some cases where the disciplinary recommendation is for a reprimand or lower.
10. It is important to note that the Chief of Police can impose a reprimand without the Department of Safety's consent or review.
11. Officers who receive an oral or written reprimand do not have the option to appeal to the Civil Service Commission.
12. There are rare circumstances where the Police Chief may request that an additional CRO meeting be held to discuss the findings.
13. J. De Angelis, (2008), *Assessing the Impact of the Office of the Independent Monitor on Complainant and Officer Satisfaction*. Athens, OH: Ohio University, pp. 11 & 13.
14. Office of the Independent Monitor, (2011), *2010 Annual Report*. City & County of Denver, pp. 5-3.
15. When talking about averages, it is important to distinguish a median from a mean. The median represents the middle value in a sorted list of numbers and is used to define the "typical" case within a sample or population. In the case of the DPD's timeliness data, the median represents the complaint whose timeliness value is lower than one half of the complaints but higher than the other half. In contrast, a mean is calculated by summing all of the values and dividing by the total number of values. In the case of Figure 2.9, we have chosen to report the median time for case closure because medians are not influenced by outlier cases—that is the median is always the middle case. Since the DPD timeliness data contains a handful of very old cases, reporting the median allows us to focus on the typical time it takes to close cases within the complaint process.
16. This figure includes all open and closed community/internal complaints received between 2006 and 2012. For closed cases, timeliness was calculated based on the number of days between the date received and the date closed. For open cases, timeliness was calculated as the number of days between the date received and January 14, 2013. Since this figure includes open cases, reported timeliness can fluctuate slightly until all cases for a particular year have been closed. If a case was delayed due to a criminal investigation, military service or medical leave, the number of days delayed was subtracted from the age of the case. Scheduled discipline, obedience to traffic regulations, and critical incident-related cases were excluded. Cases are grouped by the year the complaint was received.
17. This chart includes only community/internal cases subjected to a formal investigation and excludes declines, informals, administrative reviews, and service complaints. For closed cases, this goal was calculated based on the number of days between the date received and the date the investigation was

completed. For open investigations, the goal was calculated as the number of days between the date received and January 14, 2013. If a case was delayed due to a criminal investigation, military service or medical leave, the number of days delayed was subtracted from the age of the case. Scheduled discipline, obedience to traffic regulations, and critical incident-related cases were excluded. Cases are grouped by the year the complaint was received. Since this figure includes open cases, reported timeliness can fluctuate slightly until all cases for a particular year have been closed.

18. This calculation includes only cases that were subject to a formal IAB investigation and sent to DPD command staff for findings and discipline. For closed cases, this calculation is based on the number of days between the date the case was submitted to the CRO/command review and the date the case was closed. For cases still pending findings and discipline, this was calculated as the number of days between the date the case was submitted to the CRO/command review and February 22, 2013. Scheduled discipline, obedience to traffic, and critical incident-related cases were excluded. Cases are grouped by the year the complaint was sent for findings and discipline. Since this figure includes open cases, reported timeliness can fluctuate slightly until all cases for a particular year have been closed.



# 3

## Denver Sheriff Department (DSD) Monitoring

### Community Complaints

Community complaints are allegations of misconduct by sworn members of the DSD that are filed by community members or inmates. Such complaints can be filed in a number of ways:

- ◆ **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. *See Appendix A.*
- ◆ **OIM Online Complaint/Commendation Form**  
Complaints and commendations may also be filed through an online form on the OIM, COB, and DSD websites.
- ◆ **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.

### 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.

## Management Complaints

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

## Employee Complaints

Employee complaints are filed by civilian or sworn employees of the DSD against deputies.

## Intake Investigations and Screening Decisions

The role of the OIM within the DSD complaint 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 and 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:** The complaint results in a debriefing with the subject officer. 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 a misunderstanding or 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.

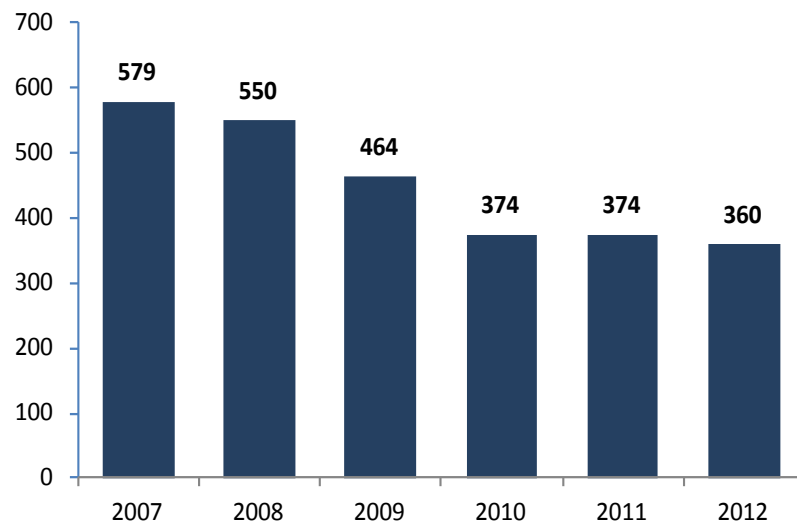
The OIM monitors all DSD IAB case screening decisions. If the OIM disagrees with a screening decision, the DSD IAB Major is notified. If the OIM and DSD IAB cannot agree on a screening decision, the OIM will discuss the conflict with the Director of Corrections and then, if necessary, with the Department of Safety.

## Complaints Filed in 2012

It can be very difficult to explain fluctuations in the number of complaints filed over time. Improvements in policy, procedure, training, and the conduct of employees can cause declines in the number of complaints filed. Yet other factors may influence complaint numbers, such as changes in the reporting practices of Department employees, variation in media coverage, shifts in community confidence in the complaint process, changes in the number of inmates, or the development of obstacles to complaint intake. As a result, we will not speculate about the causal factors underlying temporal trends in reported complaints. We do, however, note several DSD complaint patterns that emerged between 2007 and 2012:<sup>1</sup>

- ◆ The overall number of recorded community and internal complaints declined by 38% between 2007 and 2012. *See* Figure 3.1. This downward trend in complaints has been consistent from year-to-year, which suggests that the underlying cause(s) are not tied to a single easily identifiable event, but are likely the result of a number of internal and/or external factors shifting gradually over time.

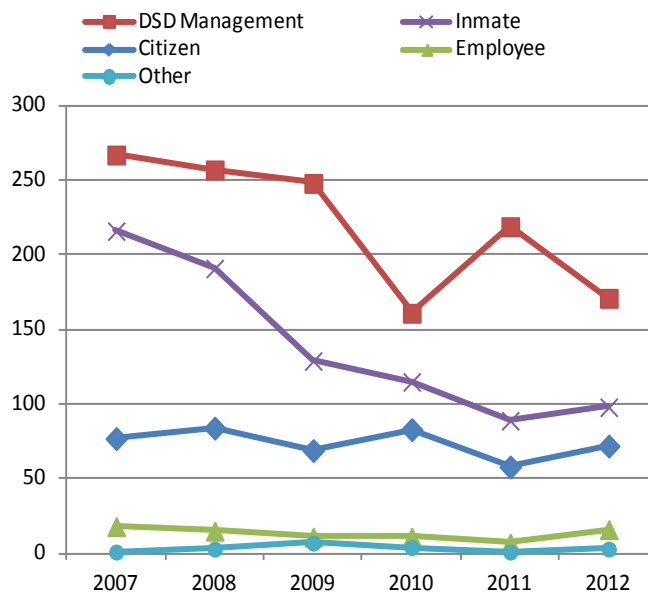
*Figure 3.1: Total Complaints Recorded by Year*



- ◆ Part of the drop in the overall recorded complaint numbers was a significant overall downward trend in the number of inmate complaints recorded against deputies (see Figure 3.2). In 2007, 216 inmate complaints were recorded against DSD deputies. In 2012, just 98 inmate complaints were recorded against deputies (a 55% decline). There was a slight uptick in inmate complaints between 2011 and 2012 (from 89 to 98).
- ◆ Another component of the overall drop in the DSD’s complaint numbers between 2007 and 2012, was a decline in the number of management complaints recorded against deputies. In 2007, DSD management initiated 267 complaints against deputies. In 2012, DSD management initiated 171 such complaints (a 36% drop).

The significant decline in the number of recorded complaints over the last five years could result from any number of factors, including improvements in patterns of deputy/inmate interaction. We intend, however, to conduct a more detailed evaluation of patterns in complaint filing and handling in the future, and look forward to working with the DSD on this analysis.

Figure 3.2: Complaints Recorded by Year and Case Type



## Most Common Complaint Allegations

Table 3.1 reports the most common allegations recorded against DSD deputies from 2007 to 2012.

*Table 3.1: Complaint Allegations by Year Recorded*

Specification	2007	2008	2009	2010	2011	2012
Improper Procedure	23%	46%	49%	34%	52%	42%
Improper Conduct	38%	18%	10%	11%	11%	17%
Lost Property	14%	17%	17%	23%	15%	18%
Service Complaint	15%	11%	15%	12%	14%	15%
Excessive Force	4%	4%	4%	4%	4%	4%
Law Violation	2%	2%	3%	5%	4%	2%
Other	4%	1%	2%	9%	0%	1%
Percent Total	100%	100%	100%	100%	100%	100%
Total Allegations	660	626	506	419	415	397

## Complaint Location

Table 3.2 reports the location of the incidents about which complaints were filed between 2008 and 2012. Approximately 49% (177) of the complaints filed in 2012 related to incidents at the Downtown Detention Center (“DDC”). This is not surprising given that the DDC currently houses most inmates in DSD custody. The County Jail had the second highest percentage of complaints at 27% (96).

*Table 3.2: Location of Complaint by Year Received*

Complaint Location	2008	2009	2010	2011	2012
County Jail	247	169	140	89	96
Court Service	24	31	17	23	11
Downtown Detention Center (DDC)	0	0	19	191	177
Denver Health Medical Center	10	10	2	16	6
City Jail--PADF (Now Closed)	180	142	37	0	0
Training	2	13	14	20	5
Technology & Special Projects	0	0	0	1	5
Vehicle Impound Facility	7	7	9	5	8
Other	80	92	136	29	52
<b>Total</b>	<b>550</b>	<b>464</b>	<b>374</b>	<b>374</b>	<b>360</b>

## IAB Investigation Process

The DSD Investigative process is very similar to the process used by the DPD. One notable difference is that DSD IAB only performs administrative investigations (those related to violations of DSD policies and procedures). It does not investigate allegations of criminal activity, and any such allegations are referred to the DPD.<sup>2</sup>

### What do OIM Staff Look for When Reviewing Investigations?

When OIM staff review completed investigations, they focus on ensuring that the investigations are fair, thorough and complete. OIM case review includes an examination of an entire case file, including listening to interviews (and comparing them to corresponding written summaries), and analyzing all other evidence collected by IAB. It also includes an evaluation of whether existing evidence suggests that there is additional material information that *was not collected*. OIM staff focus their case review on:

- ◆ **Rule Violation Decisions:** do the rule violations charged match the allegations made by the complainant?
- ◆ **Interview Thoroughness/ Impartiality:** were attempts made to interview all witnesses with material information, and were those interviews impartial and unbiased?
- ◆ **Timeliness:** was the investigation completed in a timely manner?
- ◆ **Supporting Documentation:** were all relevant police records, medical reports, or other documents obtained?

When DSD IAB receives a complaint (either directly from a complainant or as a referral from the OIM), it is assigned to a sergeant for investigation. Once the sergeant completes the investigation, the case is reviewed by the DSD IAB captain and then by the OIM. If the OIM certifies that the investigation is “thorough and complete,” the case is forwarded for disciplinary review by the subject deputy’s Chief.

In some cases, the OIM may choose to “actively monitor” the investigation. The OIM typically only actively monitors cases where there is:

1. serious injury;
2. serious use of force with injury;
3. evidence gathered early in the investigation suggests that a serious allegation may be sustained;
4. the case may be part of a pattern of misconduct; or,
5. there may have been deceptive acts.

Active monitoring means the OIM participates in all stages of the investigative process, including watching interviews in real time, suggesting questions and making suggestions on the direction of inquiry. The OIM may also

suggest evidence to be collected or preserved, or any other steps to ensure a complete investigation. The OIM also reviews the case in its entirety at the completion of the investigation. As with all other cases, the OIM can only make recommendations. The Department of Safety retains final authority to resolve any disputes concerning the thoroughness of an investigation.

For cases that the OIM does not actively monitor, the OIM will review the case at the completion of DSD IAB's investigation. At this point the case may be designated either as a formal, meaning it will proceed through the disciplinary process, or a decline, or service complaint, meaning that either the allegation could not be proven by a preponderance of the evidence, DSD lacked jurisdiction, or the complainant withdrew the complaint. If the OIM certifies that a decline is thorough and complete, the case will be closed, and a letter sent to the complainant explaining the investigative findings. Service complaints are closed out in much the same way as declines. If the complaint was formally investigated, it then proceeds to the disciplinary stage, provided that the OIM certified the investigation as thorough and complete.

### Example Case: The OIM Pushes for a Formal Investigation of Intimidation by a Deputy

An inmate filed a complaint alleging that a DSD deputy repeatedly displayed a "championship" boxing belt to inmates while asking them whether they wanted "a shot at the title" in an intimidating manner. The complaining inmate, who was recently arrested and intoxicated at the time of his interaction with the deputy, also alleged that the deputy called him "queer" and several profanities.

This case was initially presented to the OIM by DSD as a service complaint. However, we believed that the alleged intimidation of inmates and biased comments, if true, would be serious misconduct warranting swift disciplinary action. As such, after consultation with DSD IAB, the OIM recommended that the complaint be formally investigated. DSD IAB agreed to investigate the incident more thoroughly.

Through the collection of video evidence and statements from both inmates and fellow deputies, the investigation ultimately found that the subject deputy had committed several rule violations. The subject deputy, however, made official statements denying any misconduct. The deputy resigned from the DSD before discipline was imposed for the misconduct.



### A New DSD Policy to Protect Transgender Inmates

Policy analysis and revision can be among the most important work associated with organizational management. Transgender and gender-variant inmates face unique challenges in correctional settings and are often at heightened risk of discrimination, harassment, and sexual assault. Transgender individuals are often placed in administrative segregation (solitary confinement) for their protection. Yet, this practice can exact a significant psychological toll on the inmate. On June 6, 2012, the DSD implemented a new policy designed to ensure a safe, secure, and discrimination-free environment for transgender and gender-variant inmates. Several of the policy's key elements include:

- ◆ Inmates now allowed to identify their preferred name and personal pronoun during intake;
- ◆ Searches to be conducted by DSD deputies of the same gender as identified by the inmate;
- ◆ Transgender inmates in administrative segregation (for their safety) now may participate in educational sessions, group activities, and work release;
- ◆ Strip searches as a punitive measure now explicitly banned; and
- ◆ Creation of a Transgender Review Board that meets with the inmate to identify the inmate's medical, psychological, and housing needs.

This new policy is one of the most progressive in the country and will very likely reduce the risks that transgender/gender-variant inmates face in Denver's correctional facilities. We believe that the Denver Sheriff Department deserves high praise for their work on this project.

## Disciplinary Process and Findings

After the completion of the DSD IAB investigation, the case is reviewed by the subject deputy's Division Chief. The Division Chief makes an initial finding regarding policy or procedural violations.<sup>3</sup> If the Division Chief finds that a violation occurred, a disciplinary recommendation is made, and then reviewed by the OIM.

In making disciplinary recommendations, all case reviewers are obligated to follow the DSD disciplinary matrix, which allows for four types of administrative punishment (depending on the specification charged, severity of the offense, and the presence of mitigating or aggravating factors).

- ◆ A **reprimand** can be either oral (also known as “verbal”) or written, and is the lowest form of discipline.
- ◆ A **suspension** suspends the officer's salary and credit towards retirement for a specified number of business days.
- ◆ A **demotion** reduces a deputy in rank.
- ◆ **Termination** removes a deputy from department service.

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. All three division chiefs, OIM staff, and representatives from the City Attorney's Office normally attend these hearings and provide input to assist the Director of Corrections. After this meeting, the Director of Corrections makes a disciplinary recommendation to the Department of Safety. The Department of Safety will then make a final decision as to whether the deputy has violated any rules and, if so, the level of discipline to be imposed. The Department of Safety considers, but is not bound by the recommendations that the OIM or the Director provide. If the deputy disagrees with the discipline imposed by the Department of Safety, the deputy may file an appeal with the Career Service Authority.

## Findings on Complaints

A complaint may contain one or more allegations, and each allegation results in a discrete finding. In 2012, DSD IAB completed formal investigations on 291 allegations. Of these, 34% resulted in sustained findings.

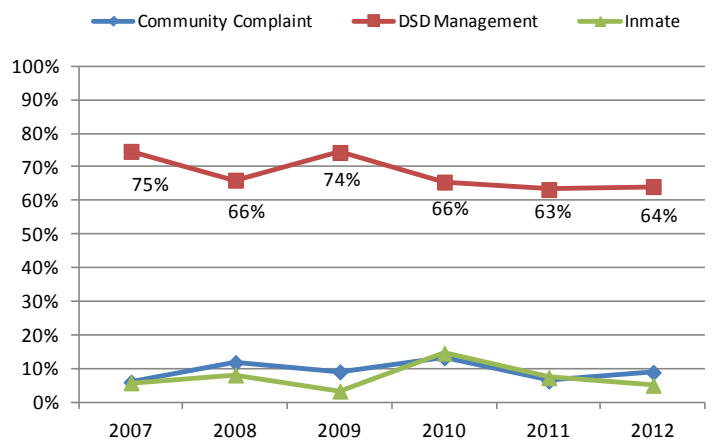
*Table 3.3: Findings for Formal Complaint Investigations Closed in 2012*

Finding	2007	2008	2009	2010	2011	2012
Sustained	32%	35%	42%	35%	39%	34%
Not Sustained/Exon./Unfounded	33%	38%	36%	29%	35%	36%
Informal/Resolved/Referred	13%	18%	14%	26%	14%	12%
Declined	22%	10%	8%	11%	12%	15%
Other	0%	0%	0%	0%	0%	2%
Total Percent	100%	100%	100%	100%	100%	100%
Total Allegations	679	598	489	407	485	291

## Complaints with Sustained Findings

Between 2007 and 2012, the percentage of community complaints (non-inmate) with one or more sustained findings fluctuated slightly, with the figure varying between 6% and 13%. Similarly, sustain rates on inmate complaints have fluctuated between 3% and 15%. DSD management complaints were much more likely to result in sustained findings than were inmate complaints, and there has been little change in the percentage of sustained management complaints in the last three years.

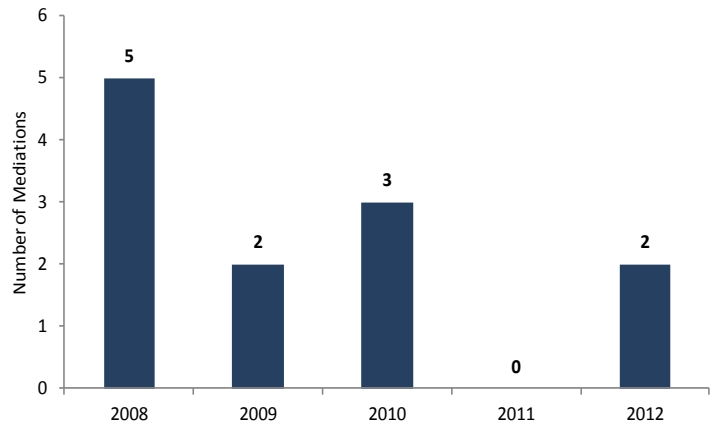
*Figure 3.3: Complaints that Resulted in One or More Sustained Allegations*



## Mediations

The DSD completes only a small number of mediations each year through the OIM mediation program. In 2012, the DSD mediated two complaints filed by employees, and no complaints filed by non-employees. At present, DSD policy does not permit for the mediation of inmate/deputy complaints, which restricts the number of complaints that are eligible for mediation.

Figure 3.4: Completed DSD Mediations by Year Received



## Patterns in Discipline

Table 3.4 reports the discipline imposed in sustained cases from 2007 to 2012. The most common form of discipline in 2012 was suspension, followed by verbal and written reprimands.

Table 3.4: Discipline Imposed on Deputies for Sustained Cases by Year of Case Closure

Discipline	2007	2008	2009	2010	2011	2012
Termination	0	8	6	2	4	2
Resigned/Retired Prior to Discipline	4	1	2	6	9	8
Suspension	19	23	27	14	21	35
Written Reprimand	47	44	91	50	46	22
Verbal Reprimand	111	86	40	41	64	23
<b>Total</b>	<b>181</b>	<b>162</b>	<b>166</b>	<b>113</b>	<b>144</b>	<b>90</b>

## 2012 DSD Cases Involving Dismissal, Resignation, or Substantial Imposition of Discipline

Below is a description of the cases in which the Department of Safety ordered termination, suspension for 10 days or more, or the deputy resigned prior to the imposition of discipline.

### Terminations

- ◆ A captain was terminated for the misappropriation of funds from a foundation, disclosing privileged information regarding a DSD IAB investigation, and releasing confidential information. The captain appealed to the Career Service Authority, which affirmed the termination.
- ◆ A deputy was terminated after engaging in a personal relationship with an inmate and then lying about certain aspects of the relationship to DSD IAB.

### Resignations

- ◆ A division chief failed to act after a subordinate officer allegedly reported that she was the victim of a serious criminal offense (which was allegedly committed by other off-duty deputies). The Denver Police Department investigated the criminal allegations, though no charges have been filed against any parties as of the writing of this report. The Division Chief resigned.
- ◆ A sergeant and two deputies resigned after an investigation was initiated regarding allegations that they had separately engaged in on-duty inappropriate conduct. One of the deputies was also allegedly deceptive during the resulting DSD IAB investigation.
- ◆ A deputy allegedly made biased comments and acted in an intimidating manner toward inmates. The subject deputy made official statements to IAB denying any misconduct. The investigation ultimately found that rule violations were committed by the subject deputy through the collection of video evidence and statements from both inmates and fellow deputies. The deputy resigned from the DSD before discipline was imposed.

## Resignations (cont.)

- ◆ An anonymous caller alleged that a deputy was involved in an inappropriate relationship with an inmate. The deputy resigned during the DSD IAB investigation.
- ◆ A deputy allegedly had an inappropriate relationship with an inmate. The deputy resigned during the DSD IAB investigation.
- ◆ A deputy allegedly took his City vehicle home without authorization and was untruthful during a DSD IAB investigation. The deputy and the City reached a negotiated settlement agreement whereby the deputy resigned prior to the imposition of discipline.

## Suspensions for Ten or More Days

- ◆ A sergeant made inappropriate remarks to a subordinate. The sergeant also allegedly retaliated against the subordinate by moving the subordinate to a different post after the subordinate made a statement disapproving of the sergeant's remarks. The Department of Safety imposed a 32-day suspension. The sergeant appealed to the Career Service Authority (CSA). A CSA hearing officer reversed on the retaliation charge and modified the discipline to a two-day suspension. The City is appealing some of the hearing officer's findings, but not the findings as they relate to the retaliation charge.
- ◆ The Department suspended a deputy for 22 days for neglecting his duties by reading in a courtroom rather than monitoring a potentially dangerous inmate who was on trial. The deputy appealed to the CSA. The deputy and the City reached a settlement agreement, reducing the discipline to a 20-day suspension.
- ◆ A deputy was disciplined for assisting in the misappropriation of funds from a foundation. The Department of Safety initially imposed 90 suspended days for the misconduct. In a negotiated settlement, the Department of Safety held 60 of the suspended days in abeyance so long as the deputy resigned from the foundation, repaid some of the misappropriated money, and attended a class on ethics.
- ◆ A deputy was disciplined for failing to report an inappropriate relationship between another deputy and an inmate, and for initially lying during the resulting IAB investigation. The deputy also disobeyed a direct order not to discuss the pending investigation with others. The Department of Safety initially terminated the deputy, but in a negoti-

ated settlement, held the termination in abeyance provided that the deputy does not violate any additional policies for the next two years, and serves a 75-day suspension.

- ◆ A deputy was disciplined for receiving a trespassing ticket in a jurisdiction outside of Denver. The off-duty deputy was found in a closed elementary school facility at approximately 11:30 PM. The deputy did not have permission to be on school grounds after hours. In a negotiated settlement agreement, the Department of Safety suspended the deputy for 13 days.
- ◆ A deputy was disciplined for failing to notify a supervisor when an inmate made multiple requests to be moved because he feared for his safety. Several hours after making such a request, the inmate got into a physical altercation with another inmate, resulting in injuries. The deputy was suspended for 18 days.
- ◆ A deputy granted an inmate special privileges to watch a door while the deputy conducted rounds, creating a security risk. The deputy also asked the inmate to write a letter criticizing other deputies. The deputy was suspended for 12 days.
- ◆ A deputy was disciplined for making inappropriate physical contact with another employee in the workplace. The deputy also sent inappropriate e-mails to another deputy using a government e-mail account. The deputy was suspended for 52 days.
- ◆ A deputy was disciplined for failing to adequately follow security procedures. The deputy failed to keep the lights on during the day, which put inmates at risk. During the time period when security procedures were not followed, one inmate was seriously injured by others. The deputy was suspended for 40 days in a negotiated settlement agreement.

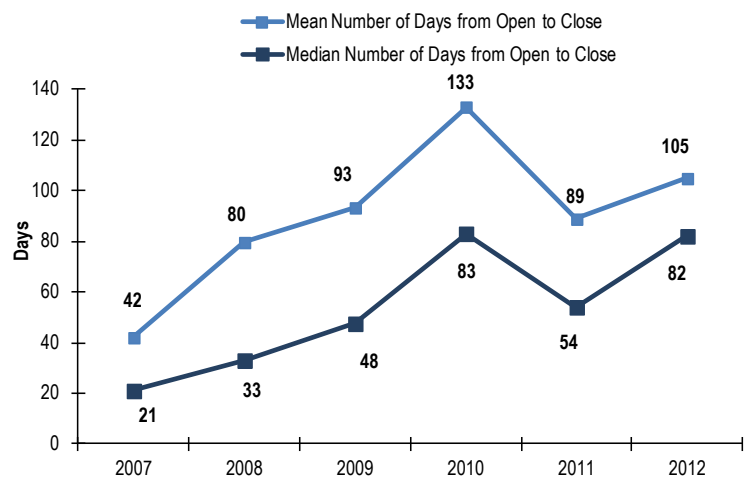
## Timeliness

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.

The DSD’s case handling time increased in 2012. Between 2011 and 2012, the median number of days to complete the investigation and disciplinary review of DSD complaints increased from 54 to 82 days, a 52% increase (these figures exclude the time it took the OIM to review investigations and for DSD IAB to act on OIM recommendations).<sup>4</sup> There could be several reasons for this increase. First, there were significant staffing changes in DSD IAB in 2012. Three different individuals served as DSD IAB captain during the last year. Second, there was also significant turnover in the investigative staff of DSD IAB. Three new sergeants joined DSD IAB in 2012, while several experienced investigators left the unit. It is not surprising that new sergeants learning investigative tradecraft would take longer to handle cases until their training is complete. Third, there were some changes at the level of Division Chief, which is where findings and disciplinary decisions are made.

Overall, we believe that the changes in timeliness are likely due to the temporary effects of staffing turnover. We have been impressed by the quality and efficiency of the work being done by new DSD IAB staff, Captain Wynn, and the new Division Chief. We have great confidence that overall case handling time will improve in 2013.

*Figure 3.5: Mean and Median Number of Days to Process DSD Internal Affairs Complaints*





## Commendations and Awards

*Table 3.5: 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).

*Table 3.6: Commendations Awarded to DSD Deputies in 2012*

Commendation and Award Type	Number	Percent
Commendations (from Supervisors/Director)	58	21%
Letters of Appreciation (from Supervisors/Director)	170	63%
Employee of the Month (Downtown)	12	4%
Employee of the Month (COJL)	12	4%
Employee of the Quarter (DSD)	4	1%
Community Service Award	5	2%
Life Saving Award	2	1%
#1 Academy Award (Academy)	1	0%
#1 Defensive Tactic Award (Academy)	1	0%
#1 Physical Fitness Award (Academy)	1	0%
Most Improved Physical Fitness Award (Academy)	1	0%
Top Gun (Academy)	1	0%
Valedictorian (Academy)	1	0%
Commendation Award	2	1%
Merit Award	1	0%
Academy Medal (Academy)	0	0%
Purple Heart	0	0%
Distinguished Service Award	0	0%
Medal of Honor	0	0%
<b>Total</b>	<b>272</b>	<b>100.0%</b>

## DSD Monitoring Endnotes

1. The data for this chapter were drawn from the Denver Sheriff Department's Internal Affairs database. The OIM is not the database administrator and has little control over data entry into the database. Moreover, since these data were drawn from dynamic, live databases, the reported complaint, allegation, and timeliness numbers will fluctuate over time and are subject to revision until all of the cases for a particular year are investigated and closed. The figures reported in this chapter only include complaints against sworn DSD officers. Finally, please note that the percentages displayed in this report have been rounded and may not always sum to 100%.
2. If a case involves allegations of investigations of criminal conduct, the investigation is performed by the Denver Police Department's Internal Affairs Bureau (DPD IAB). The DPD IAB will investigate the case and present it to the District Attorney's Office for charges. If the District Attorney decides to file charges, the case will be retained by the 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 Denver Sheriff Department for completion of the administrative investigation to determine if any internal procedures or policies were violated.
3. Division Chief has the authority to have a lower command officer analyze and review the facts in order to determine if rules were violated. However, only the Division Chief makes discipline recommendations to the Director.
4. This chart contains both open and closed cases and is based on the number of days between the date received and the date closed (for closed cases) or the date received and January 18, 2013 (for open cases). If a case closed in 2012 was delayed due to a criminal investigation or military leave, the number of days delayed was subtracted from the age of the case (these data were unavailable for cases closed prior to 2012). The time it took the OIM to review the case and for DSD IAB to respond to OIM recommendations was also excluded from this chart. Bureau-level personnel complaints (i.e., non-IA "reprimand" cases) and non-disciplinary "fit-for-duty" cases were excluded from the analysis.



# 4

## Critical Incidents

### Two-Stage Investigative Process

The investigation of any shooting by a sworn DPD officer or DSD deputy, or any death that occurs in DPD or DSD custody (collectively, “Critical Incidents”) generally has two phases. First, the District Attorney’s Office (“DA”) works with DPD Homicide investigators to determine whether any person should be held criminally liable for the incident. In order to bring criminal charges, the DA must find that there is a reasonable likelihood that all of the elements of the crime charged can be proven *beyond a reasonable doubt*, unanimously, to a jury at trial (after considering reasonable defenses). This is a very high standard.

If the DA finds that there was no provable criminal behavior, the criminal inquiry ends and the administrative review process begins. During the administrative review, the OIM, and the DPD or DSD must evaluate all evidence gathered to determine whether a *preponderance of the evidence* indicates that there were any violations of DPD or DSD policy or procedure. This is a lower standard of proof than the one that governs the criminal inquiry.

Pursuant to ordinance and protocol, the OIM responds to the scene of any critical incident, participates in and observes the investigation, reviews the investigation when complete, and observes the Use-of-Force Review Board convened to review the case. The OIM also provides input to the Chief of Police, Director of Corrections, and Department of Safety, as appropriate.

## Best Practices on Critical Incident Investigations

National best practices on policing and police oversight suggest that the administrative investigation of Critical Incidents should be oriented to gather all information required to answer the following two questions: 1) was the shooting or the officer actions related to the death-in-custody within policy; and 2) do the facts indicate any need for additional training or any revision or reformulation of agency policy? Best practices further indicate that in light of the seriousness of critical incidents, a department should conduct recorded interviews of all parties with material eyewitness information about each critical incident. This is to ensure that those conducting the administrative review have enough information to make a policy determination, and to ascertain whether the incident presents tactical, training, or policy issues from which other officers could learn.

## Officer-Involved Shooting Statistics

Figure 4.1 Officer-Involved Shootings by Year

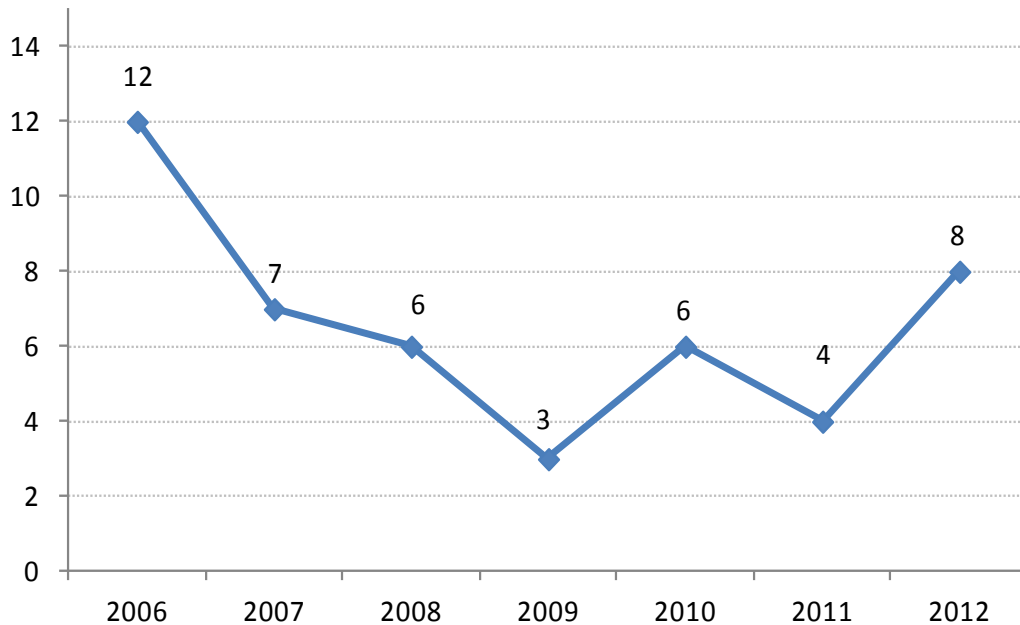


Table 4.1 Officer-Involved Shooting Characteristics

Types of Shooting Incidents	Number
Intentional Officer Involved Shooting Incidents (DPD)	8
Intentional Officer Involved Shooting Incidents (DSD)	0

Impacts of Officer Shots Fired	
Fatalities	3
Injuries	1
Non-Hit	4

Number of Shooting Officers	
DPD Officers (Intentional DPD OISs)	9
DSD Deputies (Intentional DSD OISs)	0

Civil Service Rank of Shooting Officers	
Officer	7
Corporal	1
Sergeant	1
Lieutenant	0
Captain	0

Race/Ethnicity /Gender of Shooting Officers (Intentional DPD OISs)	
White Males	4
Hispanic Males	3
African American Male	1
Hispanic Female	1

Years of Service of Shooting Officers (Intentional DPD OISs)	
Probationers (under one year)	0
1-5 years	0
6-10 years	4
11-15 years	2
16-20 years	1
21-25 years	1
25+	1

Assignments of Officers involved (Intentional DPD OISs)	
District 1	1
District 2	1
District 3	1
District 4	2
District 5	0
District 6	1
Gang Section	2
Identification/Records Bureau	1

Race/Gender of Targeted Individuals*	
Black Male	3
White Male	4
Hispanic Male	1

\*Note: One individual was involved in two separate incidents, but was counted only once in this table.

*Table 4.2 Officer-Involved Shootings by Suspect Weapon Type*

Year	Firearm	Knife	Vehicle	Other	Unarmed
2006	6	0	1	2	0
2007	1	2	1	2	0
2008	4	1	0	2	0
2009	1	0	1	1	0
2010	4	1	1	0	0
2011	2	0	0	1	1
2012	6	0	0	1	2
<b>Total</b>	<b>24</b>	<b>4</b>	<b>4</b>	<b>9</b>	<b>3</b>

*Table 4.3 Officer-Involved Shootings by Outcome and Year*

Year	Injuries	Deaths	Total
2006	3	3	6
2007	6	1	7
2008	4	3	7
2009	0	3	3
2010	3	3	6
2011	1	2	3
2012	1	3	4
<b>Total</b>	<b>18</b>	<b>18</b>	<b>36</b>



## 2012 Officer-Involved Shootings (OIS)

### 2012 OIS Incident #1, DPD

On January 26, 2012, an off-duty officer shopping at a pharmacy observed two men jump over the pharmacy counter to commit a robbery. The off duty officer, with handgun drawn, demanded that the suspects get on the ground, and the suspects refused. One of the suspects attempted to disarm the officer. During the struggle, the officer fired one shot, which did not strike anyone. The suspects were later arrested and criminally charged.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officer. No District Attorney letter was issued as the suspect was not injured.

The Department determined that the firearms discharge was permissible under the law and Department policy. However, the Department disciplined the officer for carrying a firearm not approved by the Department. The OIM concurred with this assessment and the discipline imposed.

### 2012 OIS Incident #2, DPD

On April 22, 2012, an off-duty officer was attending church in Aurora when the officer was asked to assist a person outside who had been in a car accident. When the officer exited the church, the person in the car accident fired a handgun at the officer and others. The officer returned fire, and a firefight ensued. The officer took cover in the church entrance area and the suspect, with gun in hand, pursued him. The officer shot the suspect multiple times, killing him. A bystander was also killed during the incident.

The Aurora Police Department investigated the incident, and the Arapahoe County District Attorney's Office reviewed it, declining to file charges against the involved officer.

The Department of Safety determined that the firearms discharge was permissible under the law and Department policy. A public statement from the Department of Safety is available at [www.denvergov.org/safety](http://www.denvergov.org/safety) under the link titled "Public Statements from the Manager of Safety" in the navigation bar. The OIM concurred with the Department of Safety's assessment.

## 2012 OIS Incident #3, DPD

On July 31, 2012, officers were dispatched on a welfare check regarding an individual at a motel with a gun. When they contacted the person, the officers discovered illegal drugs. They arrested the suspect and placed him into the back of a patrol car in handcuffs. An unaccompanied officer transported the suspect in this patrol car while another police car followed. During transport to the police station, the suspect partially freed his hands and forced his way through the plexi-glass window that separated him from the officer. The suspect reached for the officer's gun, and a physical struggle ensued. The trailing officer quickly came to give assistance. The suspect refused commands to stop struggling or reaching for the officer's firearm and was ultimately shot and killed by the officer who came to assist.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officer. The District Attorney prepared a letter regarding his findings, which can be accessed at: [http://www.denverda.org/News\\_Release/Officer-involved\\_shooting\\_investigations.htm](http://www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm). The Department determined that the firearm discharge was permissible under the law and Department policy and procedure. The OIM concurred with this assessment.

## 2012 OIS Incident #4, DPD

On August 28, 2012, officers responded to a call regarding a possibly suicidal person with a firearm. Officers contacted the man at his home and talked to him through a security door. The man was clearly agitated and was visibly holding a gun. He also told the officers that he had fired the gun earlier that day. The officer talking to the man asked him to put the gun down repeatedly. The man refused and eventually raised his gun from his side to chest level. In response, one of the officers fired his weapon three times, injuring but not killing the man.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officer. The District Attorney prepared a letter regarding his findings, which can be accessed at: [http://www.denverda.org/News\\_Release/Officer-involved\\_shooting\\_investigations.htm](http://www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm). The Department determined that the firearm discharge was permissible under the law and Department policy and procedure. The OIM concurred with this assessment.

## 2012 OIS Incident #5, DPD

On September 7, 2012, officers responded to a robbery in progress at an electronics store, with one hostage inside the store. When officers arrived, they were fired upon, and one officer returned fire. Hours after the gunfight and a drawn out hostage negotiation, the suspects surrendered and the hostage was released. No one was injured from the shots fired during the incident. The District Attorney did not issue a letter as no one was injured from the shots fired. The Department determined that the firearm discharge was permissible under the law and the Departmental policy and procedure. The OIM concurred with this assessment.

## 2012 OIS Incident #6, DPD

On September 12, 2012, officers responded to a domestic disturbance. During initial contact, the suspect fired multiple rounds from a handgun at the officers. The officers took cover and returned fire. The suspect then ran and barricaded himself into a building. Hours later, after failed attempts to get the suspect to come out, officers went into the building. Officers were able to take the suspect into custody. The suspect was not hit or injured by any shots fired. The District Attorney did not issue a letter regarding this incident as no one was injured from the shots fired. The Department determined that the firearm discharge was permissible under the law and Department policy and procedure. The OIM concurred with this assessment.

## 2012 OIS Incident #7, DPD

On November 6, 2012, two officers initiated a traffic stop at night. The officers approached the stopped vehicle, with one on the driver's side and one on the passenger's side. The suspect reached out the window and fired at the officer approaching on the driver's side. The officer on the passenger's side returned fire. The suspect sped away and, notwithstanding an extensive search that night, escaped. Neither the suspect nor the officers were injured in the shooting. The DPD investigation into this firearms discharge is now pending.

## 2012 OIS Incident #8, DPD

On November 9, 2012 officers became involved in a highway police pursuit involving a person believed to be a suspect in two separate firearms discharges at officers during traffic stops (including Incident #7 above). The pursuit ended in Aurora, when officers utilized a vehicle immobilization technique on the suspect's car. The car crashed with several police vehicles, and an officer fired multiple shots at the suspect, hitting him twice. The suspect was ultimately arrested after a physical struggle. The suspect survived.

Because this occurred in Aurora, the Aurora Police Department handled the criminal investigation into the officer-involved shooting. The Arapahoe County District Attorney's Office ultimately declined to file criminal charges against any involved officer. The investigation was then turned over to the DPD for a determination of whether DPD policy had been violated during this incident.

The OIM has reviewed the investigation into this matter, and we have requested that DPD conduct a more comprehensive administrative investigation into the incident. The OIM is currently in discussions with the DPD regarding concerns about the sufficiency of the administrative investigation.

## 2011 Officer-Involved Shootings Closed in 2012

### 2011 OIS Incident #1, DPD

On August 6, 2011, DPD officers responded to a home invasion, where they discovered two victims who told them that the suspect fled the scene in their car. One victim was bleeding from her head and recounted being bound, sexually assaulted, and assaulted with a gun. The second victim explained that he, too, had been bound.

Officers later found the suspect driving the victims' vehicle and an authorized pursuit ensued. The officers stopped the suspect with a collision technique that caused the suspect to spin and crash into a light pole. The suspect was ordered out of the vehicle at gunpoint. During the arrest, the suspect attempted to get away from the officers using the vehicle. Some witnesses reported that it appeared as if the suspect was trying to run over the officers. Another officer coming on scene was able to end the pursuit by running the suspect's vehicle into a tree. Officers shot and killed the suspect when he failed to get out of the car and instead pointed a handgun at an officer.

The District Attorney reviewed the incident and declined to file charges against the involved officers. The District Attorney prepared a detailed letter which can be found at [www.denverda.org/News\\_Release/Officer-involved\\_shooting\\_investigations.htm](http://www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm). The Department of Safety determined that the firearm discharge was permissible under the law and Department policy. A public statement from the Department of Safety is available at [www.denvergov.org/safety](http://www.denvergov.org/safety); via a link titled "Public Statements from the Manager of Safety" in the navigation bar. The OIM concurred with this assessment.

### 2011 OIS Incident #2, DPD

On October 4, 2011, a uniformed officer responded to a domestic disturbance. The officer attempted to make contact with a man involved in the disturbance, but the man ran from the officer, prompting pursuit. Another officer joined the pursuit in a patrol car and intercepted the man from a different direction. The man stopped on a stair landing partially obscured by bushes, hiding him from both officers. The man then put his hand behind his back. The first officer ordered the man to show his hands, and the second officer heard the man threaten to shoot. The man pushed his arms out towards one of the officers. An officer took cover

behind the police cruiser and fired a handgun at the man, missing him. Eventually the man came out of the bushes and was taken into custody. The man was not injured in the shooting. The man claimed that he had a gun but got rid of it during the foot chase. No gun was ever found.

The District Attorney did not issue a letter regarding this incident as no one was injured from the shots fired. The Department determined that the firearm discharge was permissible under the law and Department policy and procedure. The OIM concurred with this assessment.

### 2011 OIS Incident #3, DPD

On October 18, 2011, plain clothes and uniformed officers responded to a robbery in progress, with shots possibly fired, at a cellular store. Two suspects, one armed with a handgun, held up the store. A store employee was threatened and assaulted by the two suspects in order to force the employee to open a safe. One of the suspects struck the employee with a handgun. Other people in the store were ordered at gunpoint to stay put or sit down.

Once officers arrived, the suspects ran out of the store. One of the suspects attempted to car-jack a person in the parking lot, while the other ran away. The suspect fired his weapon at a vehicle in the parking lot after he had been unsuccessful at taking it. That suspect eventually pointed his gun at one of the officers, who fired his weapon at the suspect, killing him.

The District Attorney reviewed the incident and declined to file charges against the involved officer. The District Attorney prepared a detailed letter which can be found at [http://www.denverda.org/News\\_Release/Officer-involved\\_shooting\\_investigations.htm](http://www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm).

The Department of Safety determined that the firearm discharge was permissible under the law and Department policy. A public statement from the Department of Safety is available at [www.denvergov.org/safety](http://www.denvergov.org/safety); via a link titled “Public Statements from the Manager of Safety” in the navigation bar. The OIM concurred with this assessment.

## 2011 OIS Incident #4, DPD

On December 4, 2011, an officer was parked behind a business in his patrol car when a man approached carrying a hammer, which he swung at the officer. The man struck the officer's car with the hammer, shattering the driver's side window. Before the officer could get out of his car, the man pulled his arm back again to strike at the officer again. The officer fired his handgun through the driver's side window, hitting the man. The man was seriously injured, but survived. The DPD investigation revealed evidence that the man had suicidal thoughts and told someone earlier that day that he planned on "going out in a blaze of glory."

The District Attorney reviewed the incident and declined to file charges against the involved officer. The DA prepared a letter which can be found under the [http://www.denverda.org/News\\_Release/Officer-involved\\_shooting\\_investigations.htm](http://www.denverda.org/News_Release/Officer-involved_shooting_investigations.htm). The Department determined that the firearm discharge was permissible under the law and Department policy. The OIM concurred with this assessment.

## 2012 In-Custody Deaths (ICD)

*Table 4.4 Summary and Status of In-Custody Deaths, Investigations, and Review Processes*

Year	Sheriff Department				Police Department			Total
	Suicide	Medical	Other	Pending	Suicide	Other	Pending	
2006	2	1	0	0	0	1	0	4
2007	4	4	0	0	0	2	0	10
2008	3	1	0	0	0	1	0	5
2009	1	5	0	0	1	1	0	8
2010	3	0	1	0	1	1	0	6
2011	0	1	0	0	2	1	0	4
2012	0	1	0	1	1	1	1	5
<b>Total</b>	<b>13</b>	<b>13</b>	<b>1</b>	<b>1</b>	<b>5</b>	<b>8</b>	<b>1</b>	<b>42</b>

### 2012 ICD Incident # 1, DSD

On February 16, 2012, an inmate died of cancer in the Denver Detention Center hospice care. The inmate was housed in the infirmary receiving medical care weeks before he passed away. The inmate’s death was determined to be of natural causes. The administrative review by the DSD determined that there was no misconduct. The OIM concurred with this assessment.

### 2012 ICD Incident #2, DPD

On April 1, 2012, two officers spotted a vehicle that was violating several traffic regulations and recognized the driver as someone they had stopped in the past for narcotics. The officers initiated a traffic stop, and the man initially failed to stop and then made furtive movements in his car. The officers approached him with their guns drawn. The man did not obey the officers’ commands, and instead started to grab for a knife within the area of his reach. An officer struck him in the face with hands, and the officers were able to remove the man from the vehicle and handcuff him.

The man initially appeared fine: walking, talking and responding to questions. An ambulance was called to treat his facial injuries resulting from the hand strikes. While waiting for an ambulance to arrive, the suspect began convulsing and blood appeared around his mouth. He



was removed from the patrol car, and CPR was initiated. The man was transported to the hospital where he was pronounced dead. An investigation revealed that the man had swallowed a number of balloons filled with narcotics. He was found to have died of causes not related to the officers' actions.

The Denver Police Department's Homicide Bureau completed its report and the case was reviewed by the Use of Force Review Board and the Chief of Police. No policy or procedure violations were found. The OIM concurred with this assessment.

### **2012 ICD Incident #3, DPD**

On April 19, 2012, officers responded to a potential suicide. Police parked a few blocks away, preparing for contact with the suicidal person. While planning their contact, one of the officers accidentally discharged a 40mm less-than-lethal weapon. It caused no injuries or damage.

The officers approached a house and saw a man on a raised patio smoking a cigarette. Standing 35-45 feet away from the suspect and behind a privacy fence, one of the officers told the man to show his hands. The man shot himself in the head shortly after being ordered to show his hands.

The Denver Police Department's Homicide Bureau completed its report and the case was reviewed by the Use of Force Review Board. The officer's actions at the location were found to be in policy. However, the accidental discharge of the non-lethal weapon was found to be a violation of policy. Discipline was imposed by the Department of Safety, and the OIM concurred with the findings and discipline.

### **2012 ICD Incident #4, DSD**

On September 29, 2012, an inmate discovered that a fellow inmate was not breathing and had died. A coroner's report reflects that the death resulted from natural causes. The case is now pending review.

### **2012 ICD Incident #5, DPD**

On November 9, 2012, officers responded to someone acting strangely and causing a disturbance at a barber shop. The individual was contacted and shortly after handcuffed. He then became unconscious and unresponsive. He was sent to the hospital where he died days later. The case is currently being investigated by the Denver Police Department.

## 2011 In-Custody Deaths Closed in 2012

### 2011 ICD Incident #1, DPD

On December 29, 2011, officers responded to a domestic disturbance in a high rise. When the officers arrived on the scene, the suspect jumped from a balcony and fell several stories to the ground, resulting in his death. The officers did not make physical or verbal contact with the individual before he jumped. The DPD reviewed the investigation and found no misconduct or policy violations on the part of the officers. The OIM concurred with this assessment.





Office of the Independent Monitor  
201 W. Colfax Ave., Dept 1201  
Denver, CO 80202  
720 913 3306  
[www.denvergov.org/OIM](http://www.denvergov.org/OIM)  
[oit@denvergov.org](mailto:oit@denvergov.org)  
[facebook.com/officeoftheindependentmonitordenver](https://www.facebook.com/officeoftheindependentmonitordenver)