



**DENVER**  
OFFICE OF THE  
INDEPENDENT MONITOR

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# 2017 Semiannual Report

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Nicholas E. Mitchell  
Independent Monitor



# The Office of the Independent Monitor

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

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

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## FROM THE INDEPENDENT MONITOR

October 11, 2017

Nearly one in seven Denver residents is foreign-born and an estimated 55,000 undocumented immigrants live and work in Denver.<sup>1</sup> Immigrants are a vital part of our community and economy, and immigration tends to lower the rate of violent crime in many neighborhoods.<sup>2</sup>

According to national best practices, local law enforcement should not be mandated to assist federal authorities in the enforcement of civil immigration matters because immigration is a complex federal policy issue.<sup>3</sup> Further, involving local law enforcement in immigration matters may have a chilling effect on immigrants' willingness to report crimes.<sup>4</sup> Indeed, the increasingly restrictive immigration policies recently adopted in Washington D.C. may have created such a chilling effect in Denver where, in 2017, there was a 13% decrease in the rate at which Latinos reported crime,<sup>5</sup> while the rate of non-Latino reporting was on the rise.<sup>6</sup>

On August 28, 2017, the Denver City Council unanimously passed the Denver Public Safety Priorities Act ("the Act"), which, among other things, prohibits city officials, including Denver Police Department ("DPD") officers, from asking arrestees about their immigration status, and bans the use of city money or resources to assist in immigration enforcement activity.<sup>7</sup> Around the same time that Mayor Michael B. Hancock signed the Act into law, he stated, "Denver will send a clear message that every person, no matter their immigration status, can feel safe when interacting with the city and law enforcement."<sup>8</sup>

I commend Mayor Hancock and the City Council for their adoption of the Act, which I hope will help immigrant communities feel safer interacting with Denver's government. For our part, the OIM conducts extensive outreach to immigrant communities and encourages immigrants to play an active role in engaging with Denver's safety agencies. We have made complaint and commendation forms available in Spanish, and community members may call the OIM and file complaints or commendations in Spanish, if it is their preferred language. For others with limited English proficiency, we offer interpretation services. We have also established a telephone line to allow jail inmates to communicate directly with OIM staff. The OIM has not asked about or reported immigration status to law enforcement, a practice that will continue after the adoption of the Act.

Sincerely,



Nicholas E. Mitchell  
Independent Monitor  
Denver, Colorado





# 1

## Denver Police Department Monitoring

### Introduction

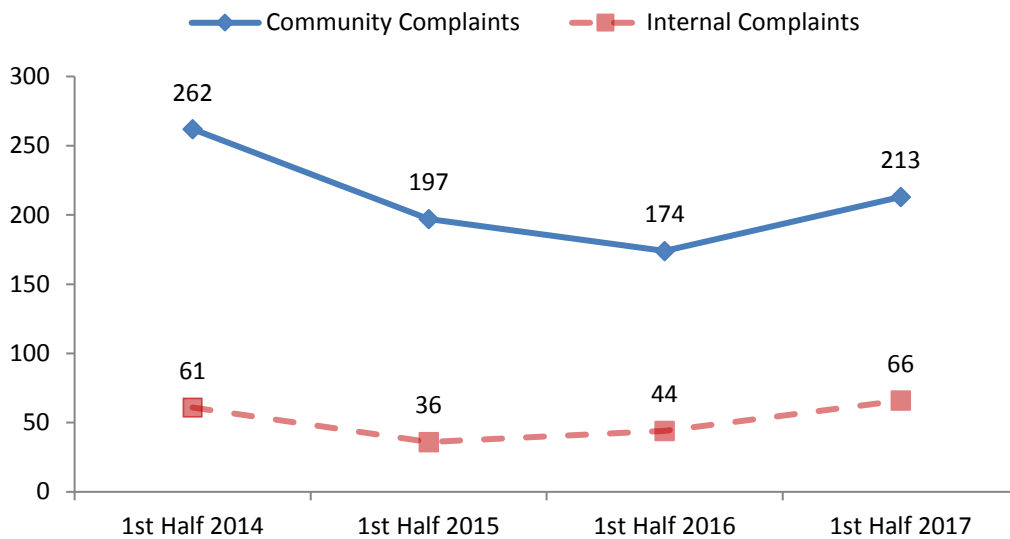
The OIM is responsible for monitoring Denver Police Department (“DPD”) investigations into complaints involving sworn personnel and for ensuring that the complaint process is accessible to all community members. Having an accessible complaint process is critical for several reasons. First, complaints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

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

## Complaints Recorded in the First Half of 2017

Figure 1.1 presents the number of complaints recorded by the DPD Internal Affairs Bureau (“IAB”) during the first half of 2017 (January 1–June 30) and the previous three years.<sup>9,10</sup> These numbers do not include most scheduled discipline cases, such as when a DPD officer violates a traffic law or misses a court date, but they do include cases involving violations of the DPD Body Worn Camera Policy.<sup>11,12</sup> The DPD recorded 213 community complaints and 66 internal complaints against DPD officers in the first half of 2017. In that time period, the number of both community and internal complaints was higher than in the first halves of the two previous years. When compared to the first half of 2016, community complaints increased by 22% and internal complaints increased by 50%.

Figure 1.1: Complaints Recorded in the First Halves of 2014–2017



As we have noted in previous reports, it is very difficult to explain fluctuations in the number of complaints filed over time. Patterns in complaints can change as the result of developments in organizational policy, practice, or training. Complaint numbers can also increase or decrease in response to a range of other factors, including, but not limited to, media coverage, changes in complaint-triage practices, and changes in the types of complaints that are recorded or not recorded.

## Most Common Complaint Specifications

Table 1.1 presents some of the most common specifications (or rules that a DPD officer might be disciplined for violating) in both internal and community complaints in the first half of 2017.<sup>13</sup> The most common specifications recorded by IAB in the first half of 2017 were Duty to Obey Department Rules and Mayoral Executive Orders and Responsibilities to Serve the Public.

*Table 1.1: Most Common Specifications in the First Half of 2017*

Specification	Percentage
Duty to Obey Departmental Rules and Mayoral Executive Orders	30%
Responsibilities to Serve Public	22%
Discourtesy	14%
Inappropriate Force	10%
Unassigned	8%
Rough or Careless Handling of City and Department Property	3%
Failure to Make or File Reports	3%
Conduct Prohibited by Law	2%
Failure to Give Name and Badge Number	1%
Failure to Maintain Impartial Attitude	1%
Commission of a Deceptive Act	1%
All Other Specifications	5%
Total Number of Specifications	509

Note: Percentages may not sum to 100 due to rounding.

Responsibilities to Serve the Public is a specification used when officers are alleged to have violated a rule requiring them to “respect the rights of individuals and perform their services with honesty, zeal, courage, discretion, fidelity, and sound judgment.”<sup>14</sup>

Duty to Obey Department Rules and Mayoral Executive Orders is a specification that covers a wide range of possible violations, including but not limited to unconstitutional search and seizure, improper handling of evidence and personal property, and violations of the DPD Body Worn Camera Policy.<sup>15</sup> In fact, more than one-third (55 of the 152) of the Duty to Obey Department Rules and Mayoral Executive Orders specifications recorded in the first half of 2017 were for potential violations of the Body Worn Camera Policy.<sup>16</sup>

### The OIM Reiterates its Recommendation for Additional Training on Body Worn Camera Activation

In its 2014 Annual Report, the OIM reported findings from its assessment of the DPD's body worn camera ("BWC") pilot project, which began in June 2014.<sup>17</sup> The OIM reviewed all uses of force that occurred in District 6 during the pilot project and sought to assess how frequently BWCs recorded uses of force, as well as some of the challenges experienced by officers during the pilot project.

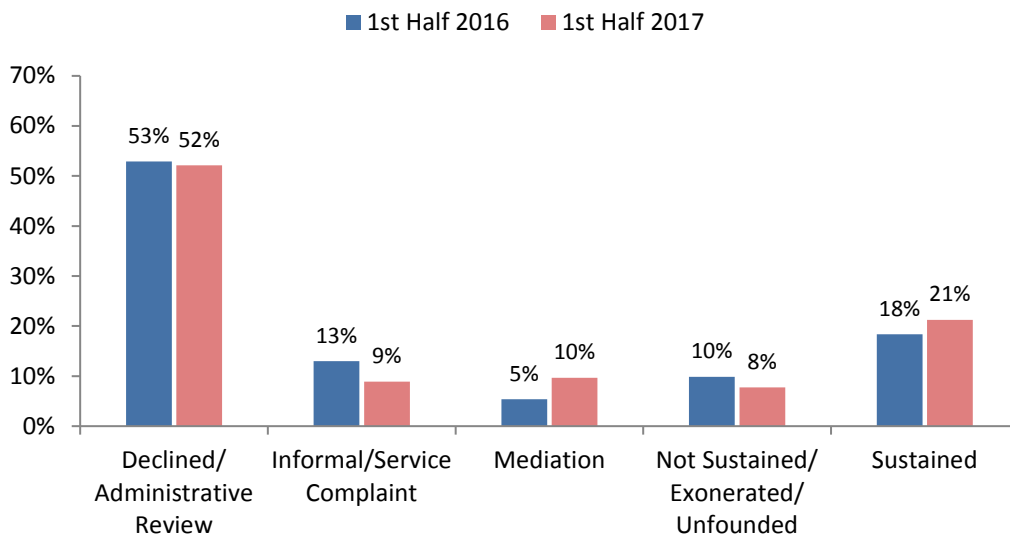
The OIM's assessment revealed that according to supervisor reports, just 26% of the uses of force that occurred during the pilot period were recorded by BWCs. Forty-four percent (35 out of 80) were excluded due to the structure of the pilot project, which did not require supervisors or officers working off-duty to wear BWCs. Of the remaining 45 uses of force, in 24% of incidents, officers reported that they did not have time to activate their BWCs safely because the encounters escalated or deteriorated rapidly. An additional 11% were not recorded due to user error or equipment issues.

The OIM recommended that the DPD provide additional training to officers on the importance of activating BWCs prior to the initiation of citizen contacts rather than after, when situations may have escalated or deteriorated too quickly to easily permit BWC activation. In response, DPD Command indicated that "[DPD] training and policy outline the activation requirements. [DPD] will cover lessons learned from the pilot during training."<sup>18</sup> The DPD has said that it provided a video training on BWC usage to all sworn staff in 2017, and the OIM commends the DPD for this effort.<sup>19</sup> However, given the high number of potential violations of the DPD BWC Policy in the first half of 2017, the OIM recommends that the DPD continue to provide training to officers on BWC activation. The OIM will be carefully watching to gauge the effectiveness of the training provided, and will conduct additional analysis and make further recommendations if the high rate of potential violations continues.

## Complaint Screening and Outcomes

A total of 259 complaints were closed in the first half of 2017. Figure 1.2 shows the disposition of these complaints as well as the disposition of complaints closed during the same time period in 2016. Outcomes in the first half of 2017 are generally similar to those in the first half of 2016. However, a larger percentage of complaints were mediated in the first half of 2017 than in the first half of 2016, and a smaller percentage were closed as informals or service complaints.

Figure 1.2: Outcomes of Complaints Closed in the First Halves of 2016 and 2017



Note: Percentages may not sum to 100 due to rounding.

## Significant Disciplinary Cases Closed in the First Half of 2017<sup>20</sup>

### Resignations and Retirements

■ On October 7, 2016, an officer stole money from a crime scene. The officer's actions were recorded on his body worn camera. The officer pled guilty to criminal charges of theft and first degree official misconduct, and he was sentenced to 18 months of probation. The officer resigned prior to a disciplinary finding.

■ In January 2017, a lawsuit was filed by a possible sex-crime victim who alleged that a film production company compromised her identity in a documentary about sex trafficking. The plaintiff alleged that a DPD sergeant disclosed her personal information and photographs in a recorded interview with the filmmakers, who then used the interview in the documentary. An investigation was initiated to determine if the sergeant violated DPD policy, but the sergeant resigned prior to a disciplinary finding.

■ On May 5, 2017, an officer was allegedly involved in a fight at a bar in another jurisdiction. He was charged with disorderly conduct and resigned prior to a disciplinary finding.

### Demotions

■ On September 8, 2016, a sergeant ("Sergeant A"), who was assigned to IAB, unholstered his duty weapon, set it on a desk, and pointed it in the direction of another sergeant ("Sergeant B"), who had been explaining to him how to input information into a DPD computer database. Sergeant A was criminally charged with prohibited use of a weapon, and subsequently pled guilty and received a twelve-month deferred judgment and sentence. Sergeant A entered into a Negotiated Stipulation and Agreement with the Office of the Executive Director of Safety ("EDOS") whereby Sergeant A was demoted to the rank of "Police Officer 1" with a penalty of termination held in abeyance for two years on the condition that he commit no further serious rule violations during the two-year period.

## Other Significant Cases, Including Suspensions of Ten or More Days

■ Between August and December 2016, an officer worked numerous off-duty jobs without the required supervisory approval. The officer also violated DPD policy by working off-duty jobs that exceeded the allowable 64 hours of work in a calendar week. The officer was suspended for 16 days.

■ On January 3, 2017, an officer failed to answer his phone or return multiple voice messages from supervisors after being placed under a Chief's order to remain home during business hours and be immediately accessible if contacted by phone. The next day, the officer indicated that he had not answered his phone because he was sick. When supervisors were again unable to reach him by telephone, several sergeants went to the officer's home to check on his welfare and discovered that the officer was home and intoxicated. The officer was suspended for 10 days.

■ On January 18, 2017, a sergeant spent over three hours while on-duty investigating a personal matter regarding the theft of his daughter's cell phone, which he had already reported to a law enforcement agency in another jurisdiction. During his investigation, the sergeant left his assigned district, neglected his other assigned duties, and inappropriately utilized department resources, including the National Crime Information Center/Colorado Crime Information Center ("NCIC/CCIC") criminal records database. The sergeant was suspended for three days.

## **Appeals of Significant Discipline Imposed Prior to January 1, 2017, and Filed With and/or Decided by the Civil Service Commission in 2017<sup>21</sup>**

■ On September 8, 2015, an officer took a juvenile runaway to a juvenile assessment center to hold her until a parent could pick her up. During the intake process, the assessment center staff requested that the juvenile remove her piercings. When the juvenile refused, the officer made insulting and disparaging remarks about her, while also threatening to hold her down and forcibly remove her piercings. The officer eventually took the juvenile to the ground and handcuffed her. The officer then called a supervisor and misrepresented the incident. Both the assessment center staff and sheriff deputies from another jurisdiction later made statements to DPD IAB expressing concern about the officer's behavior. During the resulting investigation, the officer made deceptive statements about the incident to IAB. The officer was terminated. He appealed that decision, and it was affirmed by a Hearing Officer in September 2016. He then appealed the Hearing Officer's decision, and it was affirmed by the Civil Service Commission in May 2017.



## 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. Table 1.2 presents the number and type of commendations awarded to DPD officers in the first half of 2017. Table 1.3 provides definitions for select commendations.

*Table 1.2 Commendations Awarded to DPD Officers in the First Half of 2017*

Commendation	Number	Percentage
Citizen Letter	46	29%
Commendatory Action Report	43	27%
Commendatory Letter	25	16%
Other than DPD Commendation	13	8%
Official Commendation	10	6%
Preservation of Life	7	4%
Unassigned	5	3%
Excellence in Crime Prevention	3	2%
Purple Heart	2	1%
Service Award	1	1%
Above + Beyond	1	1%
Life Saving Award	1	1%
Medal of Honor	1	1%
Medal of Valor	1	1%
Merit Award	1	1%
Officer of The Year	1	1%
<b>Total</b>	<b>161</b>	<b>100%</b>

Note: Percentages may not sum to 100 due to rounding.

## Chapter 1 :: DPD Monitoring

*Table 1.3: Commendation Types and Descriptions*

Commendation Type	Description
Medal of Honor	Awarded to an individual for an act of outstanding bravery or heroism by which the individual has demonstrated in great degree the characteristics of selflessness, personal courage, and devotion to duty at the risk of his or her own life. The individual's actions substantially contributed to the saving of, or attempted saving of a human life.
Medal of Valor	Awarded to an individual for an act, in the face of great danger, wherein valor, courage, and bravery are demonstrated over and above that normally demanded and expected.
Preservation of Life	Awarded to an individual who performs an act of heroism, demonstrates good judgment, zeal, or ingenuity over and above what is normally demanded and expected, to preserve the life of another during a critical, volatile, or dangerous encounter while protecting the safety and security of the public and his or her fellow officers.
Distinguished Service Cross	Awarded to members who are cited for gallantry not warranting a Medal of Honor or a Medal of Valor. The heroic act(s) performed must render the individual conspicuous and well above the standard expected.
Purple Heart Award	Awarded to an individual who is seriously or critically injured while performing a heroic and/or police action. This award is limited to those cases resulting from attack by an assailant, personal combat, or the performance of an act of valor.
Excellence in Crime Prevention	Awarded to an individual who, through personal initiative and ingenuity, develops a program or plan which contributes significantly to the department's mission; or through innovative crime prevention strategies, combats issues affecting the community.
Lifesaving Award	Awarded to an individual who, through exceptional knowledge and behavior, performs a physical act which saves the life of another person and there is no danger to the individual's life.
Community Service Award	Awarded to an individual who, by virtue of sacrifice and expense of his or her time, fosters or contributes to a valuable and successful program in the area of community service or affairs, or who acts to substantially improve police/community relations through contribution of time and effort when not involved in an official capacity.
Official Commendation	Awarded to an individual who by exemplary conduct and demeanor, performs at a superior level of duty, exhibiting perseverance with actions resulting in a significant contribution to the department and/or improvement to the quality of life in the community, or an individual who supervised or managed a tactical situation of an active, evolving incident as the on-scene commander.
Outstanding Volunteer Award	Awarded to an individual who, by virtue of sacrifice and expense of his or her time, fosters or contributes to a valuable and successful program in the area of the department's mission, vision and values, or who acts to substantially improve police/community relations through contribution of time and effort when not involved in an official capacity.
Officer of the Year Award	Awarded annually to an officer who has represented the department in all facets of law enforcement with a commitment to excellence, in support of the mission and values of the organization. The officer has consistently persevered in the prevention of crime and demonstrated initiative, leadership, and dedication to the law enforcement profession.

## Highlighted Commendations

### PURPLE HEART

In December 2014, an officer was assigned to a team of bike officers tasked with protecting a large group of high school students participating in a protest. The officers protected the student-protestors in active lanes of traffic for nearly three hours. At the end of the demonstration, a driver experienced a medical episode and veered into four uniformed bike officers, striking the officer and dragging him more than 100 feet. The officer suffered crushed ribs, a punctured lung, a severed artery, a broken right femur, and a cracked pelvis, and he required more than 20 surgeries. The officer has maintained an upbeat attitude and served as an inspiration for his fellow officers. For being critically injured while performing his duties, in April 2017, the officer was awarded the Purple Heart.

### EXCELLENCE IN CRIME PREVENTION

A detective with the Gang Bureau received a call about a kidnapping. The detective contacted the kidnapping victim after she was released by her captors, and identified a second kidnapping and sexual assault victim. The detective and two other detectives widened the investigation and uncovered evidence that suspects were holding men and women against their will to repay drug debts, moving victims to multiple locations, and subjecting them to torture, sexual assault, and aggravated assault. These suspects were also trafficking in methamphetamine and heroin, stealing cars, committing robberies, and arranging a murder-for-hire to kill a witness. The detectives requested that the Denver District Attorney use a grand jury to prove that the enterprise was subject to the Colorado Organized Crime and Control Act. The Grand Jury indicted 18 suspects on 128 felony counts. Motivated by a desire to stop a criminal organization that was affecting the entire metro area, the three detectives worked tirelessly to assemble this case and build rapport with witnesses and victims, while also handling their regular case loads. Because of their diligence and dedication, the three detectives were awarded the Excellence in Crime Prevention Award.

### COMMENDATORY LETTER

Two officers were called to conduct a traffic stop of a vehicle that had been under surveillance by a DPD detective. After stopping the vehicle, the officer on the driver's side noticed that the front passenger was rocking back and forth in his seat and sweating profusely, so he went to assist the officer on the passenger's side. The officer opened the front passenger door and the passenger reached for a handgun

that was protruding from his pocket. The officer grabbed the handgun and restrained the remaining passengers at gunpoint while the second officer placed the aggressive suspect into custody. The vehicle was impounded and five other handguns, an inert hand grenade, stolen jewelry, and large quantities of methamphetamine and heroin were discovered. The rear passenger stated he was going to shoot the two officers who conducted the traffic stop. The two officers received Commendatory Letters for doing an excellent job in removing the suspect from the car before he could make the situation more volatile.

### PRESERVATION OF LIFE AWARD

Two officers responded to a report of domestic violence in progress. The suspect was assaulting, striking, biting, and choking the victim. When the officers contacted the victim and the suspect, the victim answered the door and surreptitiously mouthed to the officers that the suspect had a knife. The suspect sprang to his feet and menaced the officers with a large butcher knife that had been concealed under his leg. The officers distanced themselves from the suspect, requested emergency cover, and used dining room chairs to create a barrier between themselves and the suspect. Because of their quick thinking and use of de-escalation tactics, the officers prevented the incident from escalating into a deadly force situation, and were awarded Preservation of Life Awards.

#### The DPD Creates a Preservation of Life Award to Recognize the Importance of De-escalation

The DPD recently created a Preservation of Life Award. The award is given to an individual “who performs an act of heroism, demonstrates good judgment, zeal, or ingenuity over and above what is normally demanded and expected, to preserve the life of another during a critical, volatile, or dangerous encounter while protecting the safety and security of the public and his or her fellow officers.”<sup>22</sup> The use of commendations to recognize officers who de-escalate dangerous and potentially deadly situations using verbal or tactical skills is an emerging best practice.<sup>23</sup> The OIM commends both the DPD for creating this award and the seven DPD officers who earned it in the first half of 2017.

### COMMENDATORY ACTION REPORT

A resident wrote to commend two DPD officers who had assisted his wife after a bicyclist had run into her vehicle. The bicyclist had been verbally abusive and the driver was very upset and scared. The officers made sure the driver was not injured and counseled her about the effects of traumatic events. The resident wanted to express his gratitude for the professionalism that the officers showed in addressing the situation.

## Chapter 1 :: DPD Monitoring

# 2

## Denver Sheriff Department Monitoring

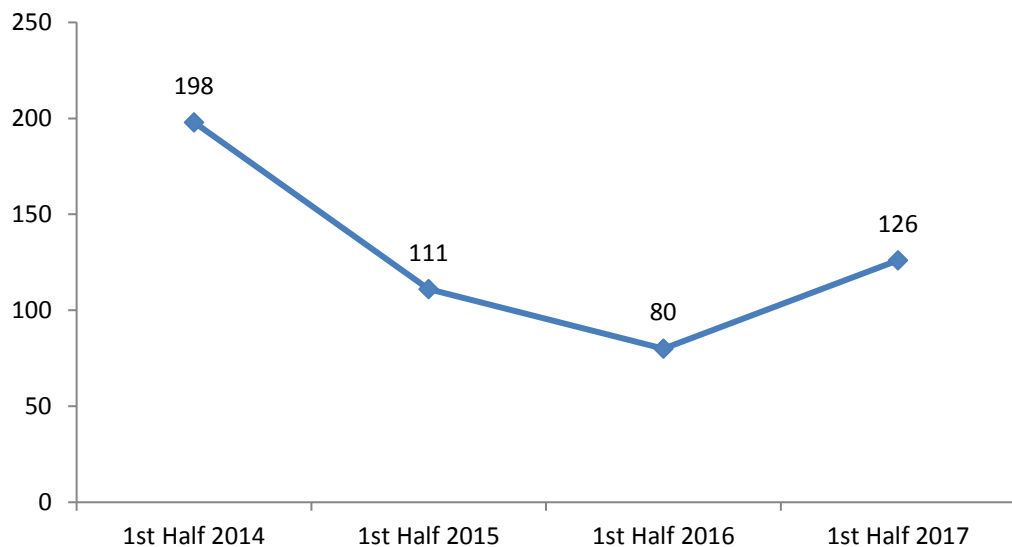
### Introduction

The OIM is responsible for monitoring and reporting on patterns in Denver Sheriff Department (“DSD”) complaints and commendations. In this chapter, we review statistical and workload patterns relating to the DSD’s complaints, investigations, findings, and discipline.

### Complaints Recorded in the First Half of 2017

Figure 2.1 presents the number of complaints recorded by the DSD IAB during the first half of 2017 and the previous three years.<sup>24, 25</sup> In the first half of 2017, the DSD recorded 126 total complaints against deputies.<sup>26</sup> This represents a 58% increase from the first half of 2016, when 80 complaints against deputies were recorded.

*Figure 2.1: Complaints Recorded in the First Halves of 2014–2017*



As we have noted in previous reports, it is very difficult to explain fluctuations in the number of complaints filed over time. Patterns in complaints can change as the result of developments in organizational policy, practice, or training. Complaint numbers can also increase or decrease in response to a range of other factors, including, but not limited to, media coverage, changes in complaint-triage practices, and changes in the types of complaints that are recorded or not recorded.

## Most Common Complaint Specifications

Table 2.1 reports the most common specifications recorded against DSD deputies in the first half of 2017.<sup>27</sup> The most common specification was “unassigned.” Because the DSD finalizes each case’s specifications during the discipline review phase rather than the investigation review process, 17% of the specifications associated with complaints recorded in the first half of 2017 were “unassigned” at the time the OIM extracted data for this report. The most common specifications from the first half of 2017 are generally similar to the first half of 2016, with one exception. In the first half of 2016, 13% of recorded specifications against DSD deputies were for Unauthorized Leave, which prohibits the use of “unauthorized leave in violation of Departmental Orders.”<sup>28</sup> The DSD recorded zero such specifications in the first half of 2017.

*Table 2.1: Most Common Specifications in the First Half 2017*

Specification	Percentage
Unassigned	17%
Disobedience of Rule	12%
Inappropriate Force	12%
Inaccurate Reporting	7%
Full Attention to Duties	7%
Discrimination, Harassment or Retaliation against Prisoners	5%
Absent from Duty	4%
Sexual Misconduct	3%
Conduct Prejudicial	3%
Discrimination, Harassment, and Retaliation	3%
All Other Specifications	26%
<b>Total Number of Specifications</b>	<b>270</b>

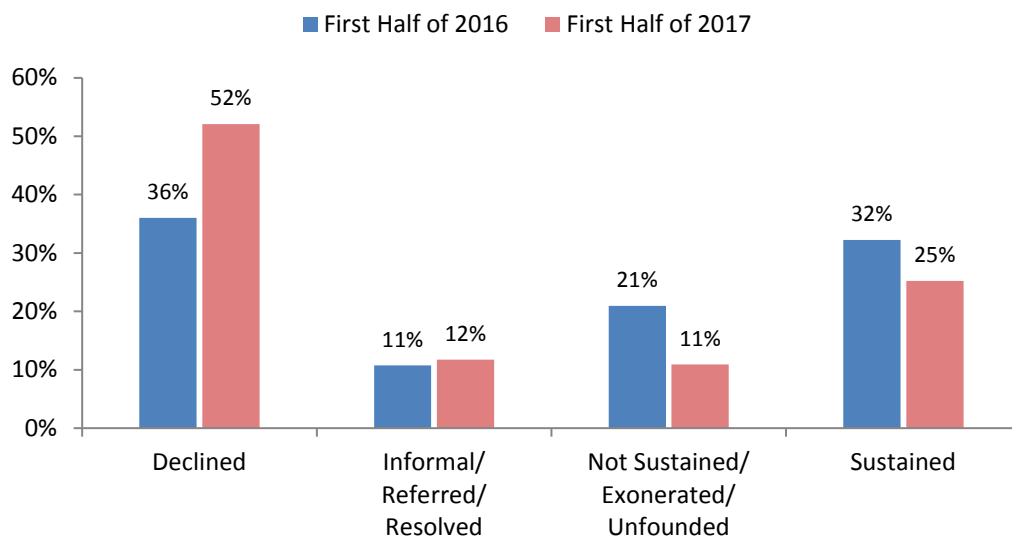
Note: Columns may not sum to 100 due to rounding.



## Complaint Screening and Outcomes

A total of 119 complaints were closed in the first half of 2017. Figure 2.2 reports the final disposition of these complaints as well as the disposition of complaints closed during the same time period in 2016. A larger percentage of complaints were declined for further investigation in the first half of 2017 than in the first half of 2016, while a smaller percentage were closed with a finding of unfounded, exonerated, not sustained, or sustained.

Figure 2.2: Outcomes for Complaints Closed in the First Halves of 2016 and 2017



Note: Percentages may not sum to 100 due to rounding.

These differences may be due, in part, to variation in the number of complaints closed with Unauthorized Leave specifications.<sup>29</sup> In the first half of 2017, the DSD closed one such complaint, compared to 53 in the first half of 2016. Complaints with Unauthorized Leave specifications are rarely declined and the handling of these cases may explain why the rate of declined cases is substantially higher in the first half of 2017 than in the first half of 2016. It may also help explain the lower rate at which cases were closed with findings of unfounded, exonerated, not sustained, or sustained.

### The OIM Recommends that the DSD Reinstate In-Person Visits in Denver's Jails

Following the release of a Request for Proposal (“RFP”), the City is currently negotiating with a vendor to provide an electronic system for the management of inmate grievances, among other services.<sup>30,31</sup> The OIM commends the DSD for moving towards automating the grievance system, which may make it easier to administer.

The RFP also solicited proposals for a new system for managing video visits between jail inmates and their families and friends. Under current DSD policy, inmates are permitted to have visits with families and friends only via telephone or video, and are not generally permitted to have face-to-face, in-person visits.<sup>32</sup> Inmates instead sit at video terminals in the jail housing areas, and visitors communicate with them from corresponding video terminals in the jail lobbies.

In the American Bar Association’s (“ABA”) Standards on the Treatment of Prisoners, the ABA recommends that correctional administrators “implement visitation policies that assist prisoners in maintaining and developing healthy family relationships,” including allowing “contact visits between prisoners and their visitors, especially minor children, absent an individualized determination that a contact visit . . . poses a danger.”<sup>33</sup> Indeed, there is broad consensus that in-person visits have many positive impacts on inmates, including increasing their psychological well-being,<sup>34</sup> and reducing their likelihood of violating jail rules.<sup>35</sup>

By maintaining family and community bonds during incarceration, in-person visits can also help ease inmates’ transitions back into the community.<sup>36</sup> In particular, in-person visits have been shown to decrease inmates’ likelihood of reoffending after release by up to 30%.<sup>37</sup> At least one study suggests that the likelihood of violent reoffending may be reduced by as much as 47%.<sup>38</sup> In-person visits could be especially impactful in Denver, where, according to the DSD’s 2012 Annual Report, one out of every two people released from Denver’s jails returns to the custody of the DSD within one year.<sup>39</sup> In light of this powerful evidence, several jail systems in the United States have recently abandoned exclusive video visitation and reinstated in-person visits,<sup>40</sup> while some states have gone as far as adopting legislation that requires their jail systems to permit in-person visits.<sup>41</sup>

The OIM commends the DSD for seeking to automate the inmate grievance management system. Yet, the current RFP also presents an opportunity for new thinking about visitation in Denver’s jails. Before the City makes a long-term—and possibly substantial—financial investment in a jail video visitation system, the OIM recommends that the DSD begin developing a plan to reinstate in-person visits in Denver’s jails. We understand that there would be operational, financial, and architectural challenges associated with such a change. The OIM stands ready to assist the DSD in whatever way we can to help resolve these issues.

## Significant Disciplinary Cases Closed in the First Half of 2017<sup>42, 43</sup>

### Terminations

■ On January 28, 2016, a deputy (“Deputy A”) was supervising inmates in a holding cell and got into an argument with an inmate because the inmate was hiding a blanket under his shirt. Deputy A unnecessarily removed the inmate from the holding cell and told the inmate he was taking him to an area of the jail with no cameras in order to assault him. Deputy A then walked the inmate to an area of the jail that, in fact, does not have cameras, shoving the inmate from behind as they walked. A second deputy (“Deputy B”) attempted to intervene, but Deputy A pulled the inmate away. Deputy A then removed his glasses and handed them to Deputy B, saying, “[h]ere, hold these, I don’t want them to get broken.” Deputy A then began to struggle with the inmate, striking him, grabbing him by the neck, and slamming him onto a counter. The deputy also made deceptive statements during IAB’s investigation of the incident. The deputy was terminated. He appealed, and a Hearing Officer affirmed his termination. He has appealed to the Career Service Board.

### Disqualifications

■ A deputy had two cases. In the first case, on April 23, 2015, the deputy was alleged to have left the Denver County Jail and failed to work her shift after allegedly having been ordered to work overtime. The deputy also allegedly made false statements during the investigation. In the second case, on June 10, 2015, the deputy was alleged to have been fraternizing with inmates. The deputy was disqualified from employment with the department for medical reasons prior to a disciplinary finding in either case.

### Demotions

■ In June 2017, a division chief, a captain, and a sergeant were disciplined for allegedly affording preferential treatment to a woman who is a relative of current and former high-ranking city officials. On September 1, 2016, the division chief was contacted by a community member and informed that the woman had an outstanding arrest warrant. The division chief answered multiple questions and then disclosed to the community member information from the National Crime Information Center/Colorado Crime Information Center database. The division

chief also personally guaranteed that someone would come out and meet the woman in the lobby when she came to turn herself in. The division chief then called his sister, a captain at the jail, and informed her of the warrant and the woman's familial and political ties.

On September 8, 2016, the woman turned herself in. The EDOS had instructed that no preferential treatment was to be given, and that instruction was relayed to the captain. Yet, the captain met the woman in the lobby, remained with her throughout the booking process, failed to walk her through the same entrance that other inmates are brought through, did not handcuff and thoroughly search her, and directed subordinates (including a sergeant) to expedite the booking process so that the woman could be seen in court sooner. The sergeant followed the captain's orders, although he had multiple opportunities not to do so.

The division chief was demoted to captain, the captain was demoted to deputy, and the sergeant was suspended for two days. The former division chief and former captain have both appealed their demotions, and the sergeant has appealed his suspension.

### Resignations and Retirements

■ A deputy had two cases. On February 20, 2016, the deputy allegedly used harassing and derogatory language towards female inmates. On March 6, 2017, the deputy allegedly was having or attempted to have a relationship with a former female inmate. The deputy resigned prior to a disciplinary finding.

■ In May 2016, IAB opened an investigation into the conduct of a deputy who allegedly used one or more controlled substances, committed a deceptive act, and had prohibited associations that he failed to report. In August 2016, the deputy entered into a settlement agreement with the EDOS and resigned prior to a disciplinary finding.<sup>44</sup>

■ On July 14, 2016, IAB received a complaint that a deputy was allegedly involved in a relationship and living with a former Van-Cise Simonet Detention Center ("Downtown Detention Center," or "DDC") inmate who was on parole, which she allegedly did not report to IAB, as required. The deputy also allegedly feigned being ill while using sick leave, asked another deputy to expedite the parolee's booking into the DDC, brought an unauthorized cell phone into the jail and used it for personal calls without permission while on duty, and violated the law by providing false information to law enforcement in another jurisdiction. The deputy

allegedly made deceptive statements during IAB's investigation. The deputy resigned prior to a disciplinary finding.

■ A deputy had two cases. In the first case, on October 21, 2016, the deputy allegedly made deceptive statements to police while they were investigating a criminal complaint. In the second case, on March 11, 2017, the deputy was charged with driving with a cancelled license, displaying fictitious/altered plates, and other traffic-related offenses. The deputy also allegedly made deceptive statements to police during their investigation of the traffic offenses. The deputy resigned prior to disciplinary findings in either case.

■ On November 16, 2016, a sergeant was alleged to have used inappropriate force on an inmate. The sergeant retired prior to a disciplinary finding.

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

■ A deputy had two cases. In the first case, on August 21, 2015, an inmate in a special management housing unit refused to comply with the deputy's commands to remove his hand from the door flap of his cell so that the deputy could shut and lock the flap. Instead of walking away from the cell or calling for assistance, the deputy used a Taser on the inmate. In the second case, on September 3, 2016, the deputy attempted to remove a property bag from the hand of a handcuffed inmate, but the inmate continued to hold on. The deputy shoved the inmate face-first into a wall and slammed his forearm and elbow into the inmate's face. The deputy also made misleading and inaccurate statements about the incident in his report. In the first case, the deputy was suspended for 10 days and was required to attend remedial training on use of force and Taser policies. The deputy appealed this suspension, and in March 2017, a Hearing Officer affirmed the discipline. The deputy has appealed that decision to the Career Service Board. In the second case, the deputy's discipline was enhanced due to his similar misconduct in the first case. He was suspended for 15 days and required to attend remedial use of force and report writing training. The deputy has appealed this decision.

■ On October 29, 2015, a deputy was working in a housing pod when an inmate winked at her. She responded by telling the inmate, "Wink at me again and I'll poke your eye out." The comment was overheard by an inmate and another deputy working in the housing pod. When questioned, the deputy made deceptive statements to IAB about the incident. Pursuant to a settlement agreement with the EDOS, the deputy was suspended for 45 days.

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■ On November 1, 2015, two deputies (“Deputy A” and “Deputy B”) were working in a special management housing pod. They failed to act and inform a supervisor after an inmate threatened to commit suicide. The inmate had previously attempted suicide and was placed in a cell with a camera. He repeatedly warned the deputies that he was going to hang himself, mimed the act of hanging himself, and attempted to slit his wrist on a towel bar. The deputies also failed to notice during rounds that the inmate had obtained a bedsheet and a pencil from another inmate under the cell door. The inmate used the pencil to mime stabbing himself. He also wrote a note stating that an “Officer showed [him] how to hang [himself]” from the camera mount, and held the note in front of the camera. The inmate attempted to hang himself by tying one end of the bedsheet to the camera mount and the other end around his neck and then covered the camera lens. Approximately a minute and a half later, deputies entered the cell and rendered aid. Deputy A made misleading statements in his report about the suicide attempt. Both deputies were suspended for 30 days, and appealed. Deputy A’s appeal was resolved by settlement. A Hearing Officer reversed Deputy B’s discipline in August 2017. That decision is being appealed to the Career Service Board.

■ On November 11, 2015, an inmate at the DDC was exhibiting erratic and aggressive behavior. He pulled foam from his mattress, tore up trash, and smeared food and feces in his cell, and upon being let out, he became aggressive with another inmate. He was isolated in the pod’s sally port and a nurse was called to evaluate him. His conduct in the sally port attracted the attention of Deputy A, who responded to watch him. Shortly after Deputy A arrived, the inmate got up from his seat, failed to sit back down when ordered by Deputy A, and attempted to get past him into the hallway beyond the sally port door. Deputy A stopped the inmate and other deputies joined Deputy A in going hands on.

The deputies held the inmate down by putting pressure on his back, arms, and legs to maintain control as they applied handcuffs and leg irons. After approximately two-and-a-half minutes of struggling against the weight of the deputies, the inmate lost consciousness. The deputies rolled the inmate onto his side and Deputy A performed a sternum rub in an attempt to revive him. When he did not react, the deputies called a medical emergency.

The inmate regained consciousness and again began struggling, squirming, and moving against the weight of the deputies. A nurse (“Nurse A”) arrived and saw vomit in the inmate’s mouth. Another nurse (“Nurse B”) who arrived asked Deputy A, “could you please release his neck a little bit? You know that he’s throwing up.” Deputy A responded that the deputies had to continue to restrain the inmate

because he was not being cooperative. Deputy A relieved the pressure on the inmate long enough to put on gloves, but returned his hands to the inmate's back, shoulder, and neck. He then continued to restrain the inmate in the manner that had been specifically advised against by Nurse B.

Nurse B asked her supervisor to "tell [the deputies] to release him a little bit, because he's throwing up. He's going to aspirate." The nurse supervisor asked Nurse A to check the inmate's breathing, and Nurse A detected that he was having bronchial spasms. Nurse A told the deputies to only hold the inmate by the extremities, and made sure there was no pressure on his back. She then told the deputies that the inmate needed to be put into a seated position, so the deputies requested a restraint chair.

For a total of almost 13 minutes, the deputies used body weight and control with their hands to hold the inmate in place. Deputy B wrapped Orcutt Police Nunchakus ("OPNs"), a pain compliance device, around the inmate's ankles and squeezed, although the inmate was already in handcuffs and leg irons. The inmate was not squirming at that time, and the deputy's actions caused the inmate to begin to struggle again. Throughout the incident, a captain stood at a distance, disengaged, and at times did not watch the events unfolding in front of him.

Eventually, a deputy put a spit hood on the inmate's head, and the deputies lifted him into a restraint chair. After the deputies secured the inmate in the restraint chair, staff noticed that the inmate's head had lolled to the side and he had stopped breathing. A nurse listened to his pulse with a stethoscope, and heard his heart stop beating. The inmate was removed from the restraint chair and placed on the ground. Deputies performed cardiopulmonary resuscitation for approximately 19 minutes. A DSD nurse, and then a paramedic, monitored the inmate's heart and determined that it was not beating. A paramedic also attempted to intubate the inmate but was unable to, due to excess vomit in the inmate's airway. The inmate's pulse returned, and he was transported to Denver Health Medical Center by paramedics, where he remained in a coma. Nine days later, the inmate was extubated and he died shortly thereafter.

OIM staff responded to the use of force on the night of the incident, and actively monitored the investigation and subsequent administrative review of the incident. On January 21, 2016, the District Attorney announced his decision to decline to file charges against the involved deputies. The District Attorney prepared a detailed letter reviewing the incident, which can be found [here](#).<sup>45</sup> Throughout the subsequent administrative review, the OIM made recommendations related to the investigation, the investigative interviews, whether



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certain allegations of misconduct should be sustained, and the disciplinary outcomes for the involved deputies.

On April 19, 2017, the EDOS announced her disciplinary decisions related to this incident. Deputy A was suspended for 16 days for using inappropriate force, even after medical personnel instructed him to release pressure from the inmate. Deputy A was also required to attend remedial training on the DSD's Use of Force Policy. Deputy B was suspended for 10 days for using inappropriate force when he used OPNs as a pain compliance technique after the inmate was restrained. The captain was suspended for 10 days for failing to supervise when he failed to communicate and give guidance to the deputies, and instead took a passive role in managing the incident. After the announcement by the EDOS, the OIM publicly disagreed with and expressed concern about the disciplinary decisions for several reasons, including our view that the discipline was not commensurate with the seriousness of the misconduct. Deputy A, Deputy B, and the captain have appealed the discipline that was imposed.

■ On August 10, 2016, an off-duty sergeant attempted to get faster service at a restaurant by displaying his badge and identifying himself as a member of law enforcement. He also went up to an officer from another jurisdiction seated at the restaurant and commented that he should have worn his uniform. The sergeant's behavior was observed both by restaurant employees and by the member of another law enforcement agency. They characterized the sergeant's behavior as rude and unprofessional. The sergeant was suspended for 30 days.

■ On August 17, 2016, a deputy working an armed post at the hospital fell asleep while guarding an inmate. The deputy was suspended for 14 days. The deputy appealed, and in August 2017, a Hearing Officer affirmed her suspension. An appeal of that decision is pending before the Career Service Board.

■ On September 5, 2016, a deputy working in the Release Unit released the wrong inmate to the custody of the Colorado State Patrol ("CSP") after the inmate switched her ID bracelet with another inmate. After escaping from the CSP, the inmate was ultimately returned to DSD custody. The deputy's actions resulted in the release of an inmate who was ineligible to be released, as well as the overdeterment of a second inmate who should have been released. He was suspended for 10 days, and appealed. The appeal was ultimately resolved by settlement.

■ On November 18, 2016, three deputies ("Deputy A," "Deputy B," and "Deputy C") were in an elevator surrounding a suicidal inmate who was handcuffed and



facing the rear wall of the elevator. Although the inmate presented no threat and was being compliant, Deputy A grabbed a fistful of the inmate's hair and yanked the inmate's head forward and side to side. Although both Deputy B and Deputy C witnessed the inappropriate use of force, Deputy B intentionally omitted the use of force from her report, and Deputy C failed to write a report altogether until ordered to do so by a supervisor. Deputy A was suspended for 10 days. Deputy B was suspended for 10 days. Deputy C was suspended for two days. All three deputies have appealed.

■ In December of 2016, a male deputy made numerous unwanted and sexually harassing advances towards a female deputy by asking to kiss her, asking for her phone number, and repeatedly hugging and making other physical contact with her. The deputy's discipline was enhanced due to his prior misconduct, and he was suspended for 30 days and required to attend sexual harassment training. The deputy has appealed.

## Appeals of Significant Discipline Imposed Prior to January 1, 2017, and Filed With and/or Decided by the Career Service Board in 2017<sup>46</sup>

■ In October 2011, a male captain received a 75-day suspension for making inappropriate sexual gestures to a female captain. The male captain appealed, and in August 2012, a Hearing Officer modified the discipline to a 30-day suspension. The male captain appealed the Hearing Officer's decision, which was affirmed by the Career Service Board in April 2013. The Office of the EDOS then appealed to the District Court, and the male captain and the Office of the EDOS ultimately appealed to the Colorado Court of Appeals, which remanded the case back to the Hearing Officer. In May 2017, the Hearing Officer again determined that only a 30-day suspension was warranted.<sup>47</sup> The male captain has again appealed to the Career Service Board.

■ On September 12, 2013, two deputies ("Deputy A" and "Deputy B") were moving an inmate from one housing unit to a more restrictive unit after the inmate flooded his cell. The deputies handcuffed the inmate and escorted him into an elevator along with additional deputies, forcing his head into the corner of the elevator and his face against the rear wall. The restrained inmate began to struggle and attempted to backwards "mule kick" the deputies who were standing behind him on either side. A sergeant who was present told the deputies to take the inmate to the ground. Both deputies then violently and forcefully launched the inmate backwards where he struck the metal floor of the elevator. After a brief struggle on the ground, the inmate was placed onto his stomach and Deputy A placed his knee on the inmate's upper back/neck area. After two other deputies grabbed the inmate's legs to carry him out of the elevator, Deputy A picked the inmate up by the handcuffs while the inmate's arms were still behind him, risking serious injury. The deputies then adjusted their hold on the inmate to an appropriate carrying technique. Once the deputies got the inmate to the new housing unit, Deputy A placed his knee and body weight on the inmate's head needlessly for approximately two and a half minutes. Deputy A was suspended for 16 days and Deputy B was suspended for 10 days. Both deputies appealed, and in March 2017, a Hearing Officer reversed both deputies' suspensions.

■ On September 26, 2013 at approximately 9:56 a.m., a deputy ("Deputy A") discovered an unresponsive inmate at the DDC. According to the autopsy report by the medical examiner, the inmate died from probable arrhythmia due to hypertensive cardiovascular disease, and the cause of death was ruled natural.

A second deputy (“Deputy B”) was assigned to the pod prior to the discovery of the deceased inmate. Deputy B’s shift was from 2:30 p.m. on September 25, 2013 to 2:30 a.m. on September 26, 2013. Video of the shift demonstrated that Deputy B failed to complete 10 of the 24 rounds required during her shift. Also, Deputy B left her housing unit on three separate occasions without another deputy present in the housing unit to relieve her (for 24 minutes total). Lastly, Deputy B failed to make all required Shift Log entries documenting her completed rounds into the Jail Management System during her shift. Deputy B was suspended for 10 days.

Deputy B appealed her suspension, and a Hearing Officer affirmed the suspension in March 2017. Deputy B appealed the Hearing Officer’s decision to the Career Service Board, which affirmed her discipline in July 2017.

■ On February 19, 2014, a deputy permitted a “sep all” inmate (“Inmate A”) to remain outside his cell with two other inmates (“Inmate B” and “Inmate C”) present. Inmate B was also “sep all,” and his cell door was open. This allowed the “sep all” inmates to have contact with each other and with the inmate workers. While the deputy was distracted, Inmate A entered the cell of Inmate B and physically attacked him, causing injury. The deputy was suspended for 16 days. He appealed this decision, and, in June of 2017, a Hearing Officer modified his discipline to a four-day suspension.

■ On November 24, 2014, a deputy working in a special management unit got into a discussion with an inmate about whether a hardcover shell of a Bible (without pages) was contraband. The deputy told the inmate to lock down and walked the inmate back to his cell. When they got to the cell door, the inmate put his hand on the door frame. In response, the deputy wrapped his arm around the inmate’s neck, and violently threw the inmate backwards off his feet. The inmate’s head slammed into a nearby metal table, causing injury. The deputy was terminated. He appealed, and a Hearing Officer modified his termination to a six-day suspension. The Office of the EDOS appealed this decision to the Career Service Board, which affirmed the Hearing Officer’s decision.

■ On January 5, 2015, a deputy left an unsupervised inmate in an elevator for approximately 36 minutes. The inmate was discovered by a security specialist checking the elevator cameras after the deputy had left for the day. The deputy was suspended for 10 days. The deputy appealed that decision, and the suspension was upheld by a Hearing Officer in December 2016. The deputy appealed this decision to the Career Service Board, which affirmed the Hearing Officer’s decision in May 2017.

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■ On January 18, 2015, a deputy became frustrated with an inmate for repeatedly asking the deputy to look up information related to his release. The deputy instructed the inmate to sit in the sally port and told other inmates not to talk to him. The inmate allegedly disobeyed the order by failing to stay seated and talking to inmates outside of the sally port. The deputy then moved him to another sally port, handcuffed him to a bench, and left him alone as punishment, in violation of the DSD policy on the use of restraints. The deputy was suspended for 16 days, and appealed this decision. In September 2016, a Hearing Officer modified the discipline to a 10-day suspension. Both the deputy and the Office of the EDOS appealed that decision to the Career Service Board. In July 2017, the Hearing Officer's decision was affirmed by the Career Service Board.

■ On May 5, 2015, a deputy used inappropriate force by pulling the hair of an intoxicated, suicidal, and naked inmate when no force was required. The deputy was suspended for 10 days. The deputy appealed that decision, and the suspension was upheld by a Hearing Officer in September 2016. The deputy appealed this decision to the Career Service Board, which affirmed the Hearing Officer's decision in February 2017.

■ On July 31, 2015, a deputy and tier clerks were collecting food trays from inmates when an inmate threw his food tray out of the cell door flap. The deputy unnecessarily kicked the door flap while the inmate's hands were visibly extended through the slot. The deputy failed to request medical care for the inmate, and when medical staff checked the inmate days later, there was visible injury to at least one of his hands. The deputy also made deceptive statements about the incident in which he provided contradictory reasons for the kick and misrepresented the position of the inmate's hands. The deputy was terminated. He appealed, and a Hearing Officer upheld his termination in October 2016. The deputy appealed this decision to the Career Service Board, which affirmed the Hearing Officer's decision in May 2017.

■ On April 8, 2016, a deputy was working in a housing pod when he used a racial slur and made racially derogatory comments when talking to inmates. He also told an inmate who had been shot by a DPD officer that he should be ". . . glad that the Denver Police shot you instead of me or the Denver Sheriffs, or we would have killed you." In addition, he called inmates "snitches" for filing grievances. The deputy was terminated, and has appealed this decision. In May 2017, a Hearing Officer upheld the deputy's termination. He has appealed this decision to the Career Service Board.

## Commendations and Awards

Every year, there are noteworthy examples of deputies engaging in actions that reflect the DSD mission to provide safe and secure custody for those placed in its care. Table 2.2 presents the number and type of commendations awarded to DSD personnel in the first half of 2017.<sup>48</sup>

*Table 2.2 Commendations Awarded to DSD Deputies in the First Half of 2017*

Commendation	Number	Percentage
PRIDE Award	24	44%
Employee of the Month	18	33%
Division Chief Commendation	8	15%
DSD Employee of the Quarter	2	4%
Citizen Letter of Commendation	1	2%
Peer Commendation	1	2%
Total	54	100%

Note: Percentages may not sum to 100 due to rounding.

## Highlighted Commendations

- While working the scout car, a deputy and his partner witnessed a vehicle accident involving injury. The deputy provided assistance by activating his vehicle's emergency lights, notifying Denver 911 of the accident, and informing them of the injuries involved.
- A deputy regularly provides tours of the Denver County Jail for the students of a local high school's classes. These tours provide the students with insight into the world of corrections. The deputy spends considerable personal time selecting inmates for the presentations and Q&A sessions with the students.
- A deputy assigned to the scout car witnessed a serious vehicle accident. The deputy observed an unresponsive male driver bleeding profusely from a large laceration on his head. The deputy found a towel and applied pressure to the wound to stop the bleeding until the emergency medical technicians arrived on scene.
- A deputy heard a DPD officer call for assistance at Civic Center Park. Upon arriving, the deputy observed a male running through the park engulfed in flames.

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The deputy immediately retrieved a fire extinguisher from his vehicle and extinguished the flames, preventing further injury to this individual.

■ While returning from a state prisoner transport, a deputy assisted with a very serious accident involving an overturned truck. The deputy was made aware by another witness that there was someone inside of the truck. He saw fluid leaking from the vehicle and immediately approached to assist the driver in safely exiting the overturned truck. The situation was precarious as the truck was apparently blown over by strong winds and the deputy did not know what fluid was leaking from the truck. Despite the danger involved, he acted with courage and bravery in assisting in this incident.

# 3

## Critical Incidents

### Introduction and Overview

Officer-involved shootings (“OISs”) and deaths in custody (collectively “critical incidents”) can have a profound impact on the lives of both community members and officers, and on the overall relationship between law enforcement and the community.<sup>49</sup> All investigations into critical incidents should be completed thoroughly and efficiently, with a goal of determining whether the incidents were handled lawfully and according to Department policy. To promote transparency in the investigation and review of critical incidents, the OIM publishes regular reports regarding the status of investigations into critical incidents.

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

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

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

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

If the Use of Force Review Board finds that the officer's actions were in compliance with DPD policy ("in-policy"), the case is forwarded to the Chief of Police. If the Chief and the OIM agree that there were no policy violations in non-fatal shootings, the case is closed and no further administrative action is taken. In fatal shootings, the EDOS may make the final determination.

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

If the OIM disagrees with a recommendation made by the Use of Force Review Board or the Chief of Police, the OIM recommendation will be forwarded to the EDOS, who makes the final decision regarding critical incidents.



## DPD Officer-Involved Shootings (January 1–June 30, 2017)

■ On February 19, 2017, officers responded to a notification by the Shot Spotter gunshot recognition system. When they arrived at the location, they found an unoccupied vehicle with the engine running and a spent shotgun shell near the vehicle. A suspect appeared in the doorway holding the shotgun. An officer fired one round at the suspect, but missed. The suspect stepped inside the house, and officers arrested him shortly thereafter. The DPD's Use of Force Review Board met on September 6, 2017, and the OIM provided advice and recommendations to the Board, which determined the shooting to be in-policy.<sup>50</sup> The OIM had concerns about the tactics used during the incident, but deferred to the in-policy decision. The incident was not referred to the Tactics Review Board.

■ On May 20, 2017, officers responded to a call of a suicidal male party. After an initial dialogue with an officer, the male walked around the side of his house toward the backyard where he encountered a second officer. The male fired a gun, striking the officer, and the officer deployed his Taser, striking the male. A cover officer fired multiple shots at the suspect, striking him. Both the officer and suspect survived. The Denver District Attorney reviewed the incident and declined to file charges against the involved officer. The District Attorney prepared a detailed letter reviewing the shooting, which can be found [here](#).<sup>51</sup> The DPD's Use of Force Review Board has not yet met to review the incident.

■ On June 18, 2017, officers were dispatched on a call of felony menacing. When the officers arrived, the suspect fled the scene in a vehicle. An officer pulled behind it and attempted to initiate a traffic stop. The suspect pointed a rifle at an officer and refused to pull over, prompting the officers to chase him. The chase entered another jurisdiction, and the suspect crashed his vehicle. The suspect was holding a firearm and refusing to obey commands. Two officers fired their weapons, striking the suspect, who survived. Because the shooting occurred in another jurisdiction, that jurisdiction's District Attorney will review the shooting for potential criminal charges. The DPD's Use of Force Review Board has not yet met to review the incident.

## DPD In-Custody Deaths (January 1–June 30, 2017)

■ On June 21, 2017, officers responded to a call of a suicidal party inside a home. When officers approached the front door, they heard a single gunshot from inside the home. When they entered, they observed a male with an apparent self-inflicted gunshot wound to the head. The case is currently under administrative review.

## DPD Critical Incidents Closed (January 1–June 30, 2017)<sup>52</sup>

■ On December 2, 2015, officers were attempting to arrest a suspect on a warrant for the attempted murder of his ex-girlfriend who he had kidnapped and shot. A detective located the suspect at his father’s apartment complex and radioed for assistance. As additional officers, including Metro/SWAT, began to arrive at the apartment complex, the suspect, his father, and a woman left the apartment complex and got into a car. Officers observed that the suspect was wearing a gun in a holster on his hip. Metro/SWAT officers arrived and pulled in front of the vehicle to attempt to prevent it from leaving, but the suspect turned the car around, and drove at a high rate of speed toward another police vehicle. The suspect attempted to turn into an alley, and the second Metro/SWAT vehicle rammed the front passenger side of the suspect’s car, which spun the car. The suspect put the car into reverse and pulled away down the alley. As the suspect’s car crossed the next intersection, he lost control and crashed. Four Metro/SWAT vehicles immediately pinned in the car, which began a standoff that lasted almost 20 minutes.

The suspect’s father and the female exited the car shortly after the crash, and were taken away from the scene by police. The suspect revved his car’s engine, ignored orders to get out, and screamed that he was going to shoot himself. Officers reported that they could not see into the car because of the heavily tinted windows and because the side airbags had deployed. Officers deployed less lethal 40mm rounds into the vehicle to attempt to break the windows and noise flash diversionary devices (“NFDDs”) in an attempt to distract the suspect. Officers also threw bricks and paving stones in attempts to break windows. Officers noticed the smell of natural gas that may have been caused by the crash, and stopped using NFDDs.

The suspect’s car caught fire, and the suspect exited the passenger side door. He was lying between the car and the garage with a gun in his hand, holding it to his own head. A Metro/SWAT officer shot the suspect’s hand with a less lethal 40mm round, knocking the gun out of the suspect’s grip momentarily. The gun landed near the suspect, and he was able to grab it. The suspect put the gun into his own mouth.

Another Metro/SWAT officer realized that the suspect could escape if he climbed over a nearby fence and ran through the backyard of a house. The Metro/SWAT officer therefore positioned himself in the backyard. After a few seconds, the suspect climbed the fence, jumped over, and began running through the backyard.

The Metro/SWAT officer yelled for the suspect to stop. According to the officer, the suspect seemed to stop and then pushed the pistol away from his body. One Metro/SWAT officer fired five rounds from a semi-automatic rifle at the suspect. Another Metro/SWAT officer fired two rounds from a pistol at the suspect. The suspect died at the scene. A third Metro/SWAT officer, who was behind the suspect at the time, was shot in the leg. The positions of the two Metro/SWAT officers that fired at the suspect, in addition to forensic evidence, suggested that one of the rifle rounds perforated the suspect's body and then struck the third Metro/SWAT officer in the leg. The officer survived.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officers. The District Attorney prepared a detailed letter reviewing the shooting, which can be found [here](#).<sup>53</sup> The DPD's Use of Force Review Board met on September 28, 2016, and the OIM provided advice and recommendations to the Board, which determined the shooting to be in-policy.<sup>54</sup> The OIM had tactical concerns about the incident, but did not consider the Use of Force Review Board's finding unreasonable. The incident was referred to the Tactics Review Board.

■ On April 12, 2016, officers assigned to the DPD's Fugitive Unit located a suspect wanted for armed robbery who was driving a car with two passengers. The Fugitive Unit requested that Metro/SWAT officers conduct the arrest. The suspect drove to the 1300 block of Bannock Street where both passengers got out of the car. Metro/SWAT officers converged on the vehicle to make the arrest.

One officer positioned his police vehicle in front of the suspect's car. That officer exited his vehicle and stood behind his driver's front door for protection. Looking through the suspect's front windshield, the officer pointed his weapon and ordered the suspect to show his hands. The officer said that the suspect did not comply, and instead shook his head "no." At one point, the officer believed that the suspect was reaching for a gun, and he stated that the suspect suddenly brought both his hands together above the steering wheel. The officer stated that he thought he saw a handgun in the suspect's right hand and believed that the suspect was beginning to point it toward him. The officer fired seven shots at the suspect, striking him three times, resulting in his death. No gun was found in the suspect's car or in his possession.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officer. The District Attorney prepared a detailed letter reviewing the shooting, which can be found [here](#).<sup>55</sup> The DPD's Use of Force Review Board met on February 22, 2017, and the OIM provided advice and

recommendations to the Board, which determined the shooting to be in-policy. The OIM had significant concerns about the tactics used during the incident, including the decision to apprehend the suspect in a very crowded area downtown during the lunch hour, and the officer's position in front of the car during the incident. The OIM also had concerns about the DPD policy, at the time, of not equipping Metro/SWAT officers with body worn cameras.<sup>56</sup> That decision is inconsistent with the OIM's previous recommendation that officers in specialized units, including Metro/SWAT, be equipped with body worn cameras due to the relatively high likelihood, compared to patrol officers, of their involvement in officer-involved shootings.<sup>57</sup> The Use of Force Review Board ultimately referred the case to the Tactics Review Board. Notwithstanding its concerns, the OIM did not consider the Use of Force Review Board's decision that the shooting was in-policy unreasonable.

■ On July 10, 2016, two males got into a verbal altercation outside of a residential building in downtown Denver. The altercation turned into a physical fight. A nearby civilian security guard attempted to break up the fight by deploying pepper spray, but was unsuccessful. While the security guard attempted to interrupt the fight, one of the involved males ran down the street, where he stopped at a vehicle and opened the trunk. Moments later, he returned toward the fight holding a handgun. The security guard caught the attention of a detective working off-duty at a nearby bar. The detective then saw one of the men raise a handgun and start firing it in the direction of the crowd. The detective yelled at the gunman to get on the ground, but the gunman continued to fire. Both the detective and the security guard, who was also armed, fired at the gunman. Both the gunman and his brother, who was involved in the physical fight and standing near the gunman at the time of the shooting, were shot and wounded.

The Denver District Attorney reviewed the incident and declined to file charges against the officer and the security guard involved in the shooting. The District Attorney prepared a detailed letter reviewing the shooting, which can be found [here](#).<sup>58</sup> The DPD's Use of Force Review Board met on April 26, 2017, and the OIM provided advice and recommendations to the Board, which determined the shooting to be in-policy. The OIM concurred.

■ On August 16, 2016, a sergeant radioed for police assistance after he spotted a car known to have been stolen in an armed car-jacking two days prior. The sergeant followed the car for a short distance, but, due to traffic, was unable to keep up. A corporal responding to the call spotted the car in a parking lot, backed up to a chain-link fence. The corporal positioned his police SUV to face the car, got out with his

weapon drawn, and yelled for the car's occupants to show their hands. Two backseat passengers and the driver, who was armed with a handgun, got out of the car and began running. The officer chased the driver toward the chain-link fence. The two passengers attempted to escape by going over the chain-link fence. The corporal was concerned that the armed driver would attempt to escape and would be an imminent threat to himself and others if he got over the fence. The corporal fired his gun multiple times at the driver, striking him in the ankle area. The driver, who was a juvenile, survived his injury.

The Denver District Attorney reviewed the incident and declined to file charges against the involved officer. The District Attorney prepared a detailed letter reviewing the shooting, which can be found [here](#).<sup>59</sup> The DPD's Use of Force Review Board met on September 6, 2017, and the OIM provided advice and recommendations to the Board, which determined the shooting to be in-policy. The OIM had concerns about the tactics used during the incident, but deferred to the in-policy decision. The Use of Force Review Board referred the case to the Tactics Review Board.

■ On August 27, 2016 two officers responded to a 911 call that a man had been stabbed at his home by a suspect who was wanted by police. When the officers arrived at the home, the suspect came out of the house, saw the officers, and ran back inside to a bedroom on the second floor. The officers entered the home, and an officer ("Officer A") drew his handgun and a second officer ("Officer B") drew his Taser. At the closed door of the second story bedroom, the officers heard a woman who was crying say, "[D]on't do this," and then scream. Fearing that the woman was being attacked, the officers opened the door and observed the suspect, who was in the room with two other people, holding a large knife that he began swinging at the officers. Officer A pointed his gun at the suspect and shouted commands for the man to put down the knife. The suspect refused to comply and instead said that he was, "not going back." The suspect began throwing items in the room at the officers while the officers continued to tell the suspect to put the knife down. At one point, the suspect charged at the officers with the knife and Officer B deployed his Taser, stopping the suspect momentarily. However, the suspect was able to remove the Taser probes. The officers retreated down a hallway when the suspect, still armed with the knife, came out of the bedroom and advanced on the officers shouting, "Just kill me, shoot me!" Officer A again told the suspect to put the knife down. When he did not, Officer A fired his weapon several times, striking and killing the suspect.

## Chapter 3 :: Critical Incidents

The Denver District Attorney reviewed the incident and declined to file charges against the officer. The District Attorney prepared a detailed letter reviewing the shooting, which can be found [here](#).<sup>60</sup> The DPD's Use of Force Review Board met on April 26, 2017, and the OIM provided advice and recommendations to the Board, which determined the shooting to be in-policy. The OIM concurred.

■ On September 5, 2016, detectives received information about a suspect who was wanted for several bank robberies. Officers located the suspect and attempted to contact him, but he fled on foot. A detective stopped and began to exit his police vehicle as the suspect pulled out a gun and shot at least one time. Another detective observed the suspect's actions, and fired four rounds at him. The suspect was not hit, but he fell to the ground. The detective ran toward the suspect and saw the gun was still in his hand and was pointed in his direction. He fired a fifth shot at the suspect, which also missed. The suspect tossed the gun aside and was taken into custody. No one was hit by any gunfire.

The DPD's Use of Force Review Board met on April 26, 2017, and the OIM provided advice and recommendations to the Board, which determined the shooting to be in-policy. The OIM deferred to the Use of Force Review Board's decision.

### DPD Accidental Shootings Closed (January 1–June 30, 2017)

■ On July 28, 2016, an officer responded to provide cover for other officers who had stopped a suspected stolen vehicle. As the officer was getting out of his car and drawing his gun, he allegedly accidentally discharged his weapon when his hand inadvertently struck the car frame, causing him to pull the trigger. No one was injured in the shooting. The Denver District Attorney reviewed the incident and declined to file charges against the officer. The officer was suspended for four days for carelessly handling his firearm.



## Critical Incidents: Denver Sheriff Department

### In-Custody Death Investigation and Review Protocol

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

### Administrative Review of Critical Incidents Involving DSD Deputies

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

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

### **DSD In-Custody Deaths (January 1–June 30, 2017)**

■ On July 10, 2017, a fight occurred between two inmates at the DDC. Deputies responded, and one of the inmates died immediately after the fight. There is no indication that a weapon was used, and the Denver District Attorney declined to file charges against the surviving inmate. The case is currently under administrative review.

### **DSD Critical Incidents Closed (January 1–June 30, 2017)<sup>61</sup>**

■ On November 11, 2015, an inmate at the DDC was exhibiting erratic and aggressive behavior. Deputies used force to control the inmate, which resulted in a medical emergency and the inmate's eventual death nine days later. On January 21, 2016, the Denver District Attorney announced his decision to decline to file charges against the involved deputies.

On April 19, 2017, the EDOS announced that two deputies and a captain would be suspended for their roles in the incident (for 16, 10, and 10 days, respectively). After that announcement, the OIM publicly disagreed with and expressed concern about the disciplinary decisions by the EDOS for several reasons, including our view that the discipline was not commensurate with the seriousness of the misconduct. Please see pages 22-24 of this report for a more detailed discussion of this incident.

### **DSD Accidental Shootings Closed (January 1–June 30, 2017)**

■ On August 18, 2016, a sergeant was at a clearing barrel after qualification testing at the firing range and had an accidental discharge while clearing his weapon. No one was injured. The sergeant was suspended for two days for carelessly handling his firearm.



# Endnotes

<sup>1</sup> Denver Council Bill 17-0940 (2017).

<sup>2</sup> See, e.g., Graham C. Ousey and Charis E. Kubrin, *Exploring the Connection Between Immigration and Violent Crime Rates in U.S. Cities, 1980–2000*, SOCIAL PROBLEMS 56 (3), 447–473; See also Lesley Williams Reid, Harald E. Weiss, Robert M. Adelman, and Charles Jaret, *The Immigration-Crime Relationship: Evidence Across US Metropolitan Areas*, SOCIAL SCIENCE RESEARCH 34 (4), 757–780.

<sup>3</sup> INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, ENFORCING IMMIGRATION LAW: THE ROLE OF STATE, TRIBAL, AND LOCAL LAW ENFORCEMENT 5; MAJOR CITY CHIEFS ASSOCIATION IMMIGRATION POSITION 1 (OCT. 2011).

<sup>4</sup> INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, ENFORCING IMMIGRATION LAW: THE ROLE OF STATE, TRIBAL, AND LOCAL LAW ENFORCEMENT 5.

<sup>5</sup> Compared to 2016.

<sup>6</sup> Denver Council Bill 17-0940 (2017), citing Fivethirtyeight.com analysis of DPD data.

<sup>7</sup> DPD policy prior to the adoption of the Act stated that “Denver Police officers shall not initiate police actions with the primary objective of discovering the immigration status of a person” and that “Generally, officers will not detain, arrest, or take enforcement action against a person solely because he/she is suspected of being an undocumented immigrant.” See DPD Operations Manual Section (“OMS”) 104.52 (3)(a-b).

<sup>8</sup> Denver Announces New Public Safety Enforcement Priorities Ordinance, City and County of Denver Office of Sustainability, <https://www.denvergov.org/content/denvergov/en/office-of-sustainability/news-events/2017/denver-announces-new-public-safety-enforcement-priorities-ordina.html>.

<sup>9</sup> The data reported in this chapter were extracted from the Denver Police Department’s Internal Affairs records management database (“IAPro”). The OIM is not an IAPro administrator and has limited control over data entry into the database. The OIM does not conduct governmentally-approved audits of the database for accuracy. As a result, the OIM is unable to certify the accuracy of the DPD’s Internal Affairs data. Finally, because the OIM is not the final arbiter of what allegations to record in IAPro and against which officers, the OIM cannot certify that the data presented (with respect to specific complaint allegations) are what they would be if the OIM were making these decisions. Since the data were drawn from dynamic, live databases, the recorded complaint, allegation, and outcome numbers will fluctuate over time and are subject to revision. The figures reported in this chapter do not include complaints against DPD civilian employees, or complaints that were not linked to a subject officer in IAPro. Unless otherwise noted, the data included in this chapter were last retrieved from IAPro on August 4, 2017.

<sup>10</sup> Because of changes in coding and/or analysis of complaints, allegations, findings, and discipline, there may be slight discrepancies between historical data presented in this report and data presented in previous OIM reports.

## Endnotes

<sup>11</sup> Scheduled discipline violations include Failure to Appear in Court, Failure to Shoot for Efficiency, Photo Radar, Safety Restraining Devices, Required Minimum Annual Continuing Education, CEP Cancellation/CEP Failure to Attend, Preventable Accidents, and Punctuality. *See* DENVER POLICE DEPARTMENT DISCIPLINE HANDBOOK: CONDUCT PRINCIPLES AND DISCIPLINARY GUIDELINES, 12.4.

<sup>12</sup> *See* DPD OMS 119.04(12) (The policy provides scheduled discipline for the first three violations, in a 12-month period, of the body worn camera recording requirements. The first violation requires a review of the BWC policy, an oral reprimand, and a journal entry, the second violation a written reprimand, and the third violation one fined day.).

<sup>13</sup> Many reports related to police oversight and IAB processes refer to complainant allegations. In this chapter, “allegations” refer to assertions, in a complainant’s own words, of particular kinds of purported misconduct by an officer. The DPD does not systematically track the detailed allegations made by complainants in its Internal Affairs database. Instead, it tracks “specifications” 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. At the time the OIM extracted the data for this report, 39 specifications associated with complaints recorded in the first half of 2017 were unassigned. Data on specifications were extracted from IAPro on September 28, 2017.

<sup>14</sup> DENVER POLICE DEPARTMENT DISCIPLINE HANDBOOK: CONDUCT PRINCIPLES AND DISCIPLINARY GUIDELINES, Appendix G, at 9 (RR-127).

<sup>15</sup> DENVER POLICE DEPARTMENT DISCIPLINE HANDBOOK: CONDUCT PRINCIPLES AND DISCIPLINARY GUIDELINES, Appendix G, at 6 (RR-102.1).

<sup>16</sup> *See* DPD OMS 119.04(3).

<sup>17</sup> OFFICE OF THE INDEPENDENT MONITOR, 2014 ANNUAL REPORT 7-36.

<sup>18</sup> DENVER OFFICE OF THE AUDITOR, AUDIT OF POLICE OPERATIONS – DISTRICT PATROL, 36 (Jan. 2016).

<sup>19</sup> E-mail from Chief Robert White to Independent Monitor Nicholas E. Mitchell (Sept. 27, 2017) (on file with author).

<sup>20</sup> Complaints with significant discipline closed in the first half of 2017 may not be included in this section if they were summarized in the OIM’s 2016 Annual Report.

<sup>21</sup> Summary data on appeals filed by DPD officers or by the Office of the Executive Director of Safety regarding DPD officers were provided to the OIM by the Civil Service Commission on July 21, 2017.

<sup>22</sup> DPD OMS 503.02(5).

<sup>23</sup> *See, e.g.*, GEORGE FACHNER AND STEVEN CARTER, AN ASSESSMENT OF DEADLY FORCE IN THE PHILADELPHIA POLICE DEPARTMENT 117 (Office of Community Oriented Policing Services 2015) (recommending that the “department should develop a commendation that recognizes when an officer uses exceptional tactical or verbal skills to avoid a deadly force situation”); Errin Haines Whack, *Police Departments Begin to Reward Restrain Tactics*, ASSOCIATED PRESS

(May 31, 2016) (citing the directors of the Center for Police Equity and U.S. Department of Justice’s Community Oriented Policing Services as recommending the use of such awards).

<sup>24</sup> Unless otherwise noted, the data for this chapter were obtained from the Denver Sheriff Department’s Internal Affairs records management database (“IAPro”). The OIM is not an IAPro administrator and has no control over data entry into the database. The OIM does not conduct governmentally approved audits of the database for accuracy. As a result, the OIM is unable to certify the complete accuracy of the DSD’s internal affairs data. Finally, because the OIM is not the final arbiter of what allegations to record in IAPro and against which officers, the OIM cannot certify that the data presented (with respect to specific complaint allegations) is what it would be if the OIM were making these decisions. Since the data were drawn from dynamic, live databases, the recorded complaint, allegation, and outcome numbers will fluctuate over time and are subject to revision. The figures reported in this chapter include only complaints against sworn DSD deputies. The data included in this chapter were last retrieved from IAPro on August 4, 2017.

<sup>25</sup> Because of changes in coding and/or analysis of complaints, allegations, findings, and discipline, there may be slight discrepancies between historical data presented in this report and data presented in previous OIM reports.

<sup>26</sup> Sworn DSD staff, including supervisors, are collectively referred to as “deputies” throughout this report, unless otherwise noted.

<sup>27</sup> Many reports related to police oversight and IAB processes refer to complainant allegations. In this chapter, “allegations” refer to assertions, in a complainant’s own words, of particular kinds of purported misconduct by an officer. The DSD does not systematically track the detailed allegations made by complainants in its Internal Affairs database. Instead, it tracks “specifications” 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.

<sup>28</sup> DENVER SHERIFF DEPARTMENT DISCIPLINE HANDBOOK: CONDUCT PRINCIPLES AND DISCIPLINARY GUIDELINES Appendix F, at 8 (RR 100.10.2). The OIM does not generally review these complaints unless aggravated.

<sup>29</sup> DENVER SHERIFF DEPARTMENT DISCIPLINE HANDBOOK: CONDUCT PRINCIPLES AND DISCIPLINARY GUIDELINES Appendix F, at 8 (RR 100.10.2).

<sup>30</sup> CITY AND COUNTY OF DENVER, REQUEST FOR PROPOSAL NUMBER 28275 DENVER SHERIFF DEPARTMENT VIDEO VISITATION REPLACEMENT (2015).

<sup>31</sup> Telephone conversation between Independent Monitor Nicholas E. Mitchell and City and County of Denver Technology Services Project Manager Berkley Swarzentuber (Oct. 10, 2017) (record on file with author).

<sup>32</sup> DENVER SHERIFF DEPARTMENT ORDER 4520.1M; *see also* DDC and County Jail Visit Schedules, “ALL VISITS ARE VIDEO VISITS ONLY (no contact visits),” available at: <https://www.denvergov.org/content/dam/denvergov/Portals/776/documents/InmateServices/VisitScheduleDDC.pdf>.

<sup>33</sup> AMERICAN BAR ASSOCIATION, ABA CRIMINAL JUSTICE STANDARDS ON THE TREATMENT OF PRISONERS 175 (2010).

## Endnotes

- <sup>34</sup> Arif Khan, Robyn M. Leventhal, Shirin Khan, and Walter A. Brown, *Suicide Risk in Patients with Anxiety Disorders: A Meta-analysis of the FDA Database*, 68 JOURNAL OF AFFECTIVE DISORDERS 189 (2002).
- <sup>35</sup> Kristie R. Blevins, Shelley Johnson Listwan, Francis T. Cullen, and Cheryl Lero Jonson, *A General Strain Theory of Prison Violence and Misconduct: An Integrated Model of Inmate Behavior*, 26 JOURNAL OF CONTEMPORARY CRIMINAL JUSTICE 154 (2010).
- <sup>36</sup> Grant Duwe and Valerie Clark, *Blessed Be the Social Tie That Binds: The Effects of Prison Visitation on Offender Recidivism*, 24 CRIMINAL JUSTICE POLICY REVIEW (2013).
- <sup>37</sup> William D. Bales and Daniel Mears, *Inmate Social Ties and Transition to Society: Does Visitation Reduce Recidivism?* 45 JOURNAL OF RESEARCH IN CRIME AND DELINQUENCY (2008).
- <sup>38</sup> Daniel P. Mears, Joshua C. Cochran, Sonja E. Siennick, and William D. Bales, *Prison Visitation and Recidivism*, 29 JUSTICE QUARTERLY 888 (2012).
- <sup>39</sup> DENVER SHERIFF DEPARTMENT 2012 ANNUAL REPORT 17 (defining recidivism as “an offender’s return to incarceration in Denver’s city or county jail for a new offense within a year of release”).
- <sup>40</sup> Mindy Fetterman, *Face-to-Face Family Visits Return to Some Jails*, Pew Charitable Trusts (Feb. 2017) (available at: <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2017/02/15/face-to-face-family-visits-return-to-some-jails>) (noting that counties in Texas, Mississippi and the District of Columbia are reinstating jail contact visits).
- <sup>41</sup> H.B. 549, 84<sup>th</sup> Legislature (Tex. 2015) (requiring the Texas Commission on Jail Standards to establish minimum standards that provide inmates with a minimum of two in-person contact visits per week).
- <sup>42</sup> Complaints with significant discipline closed in the first half of 2017 may not be included in this section if they were summarized in the OIM’s [2016 Annual Report](#).
- <sup>43</sup> In this section, “deputy” refers only to those personnel with the title “deputy” at the time of the incident. Sworn staff with other titles, such as “captain” or “sergeant,” are noted throughout the summaries.
- <sup>44</sup> Though the settlement agreement was signed in August 2016, this incident is included in this report rather than a previous report because it was not marked as completed in IAPro until February 16, 2017.
- <sup>45</sup> Decision Statement from Denver District Attorney Mitchell R. Morrissey (January 21, 2016), [http://www.denverda.org/News\\_Release/Releases/2016%20Release/MarshallDecisionStatement.pdf](http://www.denverda.org/News_Release/Releases/2016%20Release/MarshallDecisionStatement.pdf) (regarding the investigation of the in-custody death of Mr. Michael Marshall).
- <sup>46</sup> Summary data on appeals filed by DSD deputies or by the Office of the EDOS regarding DSD deputies were provided to the OIM by the Career Service Hearing Office on August 17, 2017.
- <sup>47</sup> The Colorado Court of Appeals remanded the case to the Denver District Court to further remand back to the Career Service Board to determine the appropriateness of the EDOS’s original discipline decision. The Career Service Board then remanded the case to the Hearing Officer to make that determination.

<sup>48</sup> Data on DSD commendations were provided by the DSD Data Science Unit and may include commendations awarded to non-sworn personnel.

<sup>49</sup> When community members die in the custody of the DPD or DSD of natural causes, the OIM has not historically reported on those deaths.

<sup>50</sup> While the Denver District Attorney's Office investigates all officer-involved shootings, it only releases decision letters on its website for members of the public when an officer shoots and wounds or kills a person. *See* BETH MCCANN, DENVER DISTRICT ATTORNEY, OFFICER-INVOLVED SHOOTING PROTOCOL (2017) at 1. The District Attorney did not issue a public letter on the investigation of the shooting, likely because the suspect was not killed or wounded.

<sup>51</sup> Decision Letter from Denver District Attorney Beth McCann to Denver Police Chief Robert White (Sept. 29, 2017), [http://www.denverda.org/News\\_Release/Decision\\_Letters/Decision%20Letter%20re%20Officer-Involved%20Shooting--May%2020,%202017.pdf](http://www.denverda.org/News_Release/Decision_Letters/Decision%20Letter%20re%20Officer-Involved%20Shooting--May%2020,%202017.pdf) regarding the investigation of the shooting of Mr. Brendan Gerwing).

<sup>52</sup> Critical incidents closed in the first half of 2017 may not be included in this section if they were summarized in the OIM's [2016 Annual Report](#).

<sup>53</sup> Decision Letter from Denver District Attorney Mitchell R. Morrissey to Denver Police Chief Robert White (May 5, 2016), [http://www.denverda.org/News\\_Release/Decision\\_Letters/2015letterBradleyTitus.pdf](http://www.denverda.org/News_Release/Decision_Letters/2015letterBradleyTitus.pdf) (regarding the investigation of the shooting death of Mr. Phillip Munoz).

<sup>54</sup> This incident is included in this report because the DPD's administrative review of the shooting was completed on January 19, 2017

<sup>55</sup> Decision Letter from Denver District Attorney Mitchell R. Morrissey to Denver Police Chief Robert White (Aug. 11, 2016), [http://www.denverda.org/News\\_Release/Decision\\_Letters/Decision%20letter%20April%2012%202016%20--%20DPD%20Technician%20Jeffrey%20Motz%20.pdf](http://www.denverda.org/News_Release/Decision_Letters/Decision%20letter%20April%2012%202016%20--%20DPD%20Technician%20Jeffrey%20Motz%20.pdf) (regarding the investigation of the shooting death of Mr. Dion Damon).

<sup>56</sup> Four months later, in June 2017, the DPD revised its Body Worn Camera Policy to require Metro/SWAT officers to activate their body worn cameras according to policy only when performing the duties of a patrol officer. The revised policy does not require Metro/SWAT officers to activate body worn cameras while executing planned tactical operations, unless ordered to do so by a commander or above. *See* OMS 119 (3)(b)(10).

<sup>57</sup> OFFICE OF THE INDEPENDENT MONITOR, 2014 ANNUAL REPORT 25.

<sup>58</sup> Decision Letter from Denver District Attorney Mitchell R. Morrissey to Denver Police Chief Robert White (Sept. 19, 2016), [http://www.denverda.org/News\\_Release/Decision\\_Letters/2016-14th%20&%20Curtis.pdf](http://www.denverda.org/News_Release/Decision_Letters/2016-14th%20&%20Curtis.pdf) (regarding the investigation of the shooting and wounding of Mr. Kevin Lee Jones and Robert Jones).

<sup>59</sup> Decision Letter from Denver District Attorney Mitchell R. Morrissey to Denver Police Chief Robert White (Nov. 22, 2016), [http://www.denverda.org/News\\_Release/Decision\\_Letters/2016letterHeinis.pdf](http://www.denverda.org/News_Release/Decision_Letters/2016letterHeinis.pdf) (regarding the investigation of the shooting and wounding of Mr. LAJ, a juvenile).

## Endnotes

<sup>60</sup> Decision Letter from Denver District Attorney Mitchell R. Morrissey to Denver Police Chief Robert White (Dec. 12, 2016), [http://www.denverda.org/News\\_Release/Decision\\_Letters/2016letterGutierrezMcKain.pdf](http://www.denverda.org/News_Release/Decision_Letters/2016letterGutierrezMcKain.pdf) (regarding the investigation of the shooting death of Mr. Terry Lee Salazar).

<sup>61</sup> Critical incidents closed in the first half of 2017 may not be included in this section if they were summarized in the OIM's 2016 Annual Report.





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