



DENVER
OFFICE OF THE
INDEPENDENT MONITOR

2018 Semiannual Report

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Independent Monitor

The Office of the Independent Monitor

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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Denver Police Department Monitoring

Introduction

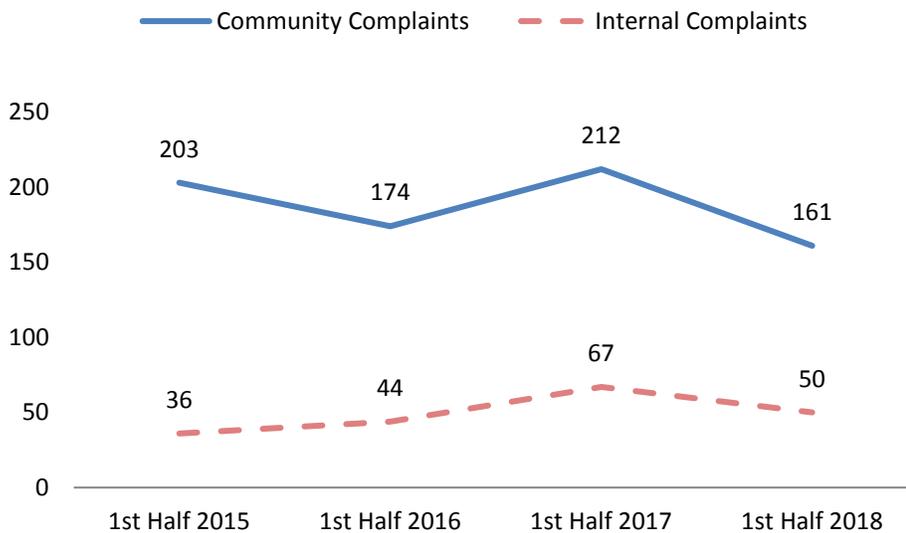
The Office of the Independent Monitor (“OIM”) is responsible for monitoring Denver Police Department (“DPD”) investigations into complaints involving sworn personnel and ensuring that the complaint process is accessible to all community members.¹ Having an accessible complaint process is critical for several reasons. First, complaints provide the DPD with information it may use to hold officers accountable when they fail to adhere to Department and community standards of conduct.² 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 more effectively perform their important public safety function.

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

Complaints Recorded in the First Half of 2018

Figure 1.1 presents the number of complaints recorded by the DPD Internal Affairs Bureau (“IAB”) during the first half of 2018 and the first halves of the previous three years.^{3,4} 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 complaints involving potential violations of the DPD’s Body Worn Camera (“BWC”) Policy.^{5,6} In the first half of 2018, the DPD recorded a total of 211 complaints. The DPD recorded 161 community complaints in the first half of 2018, a 24% decrease from the first half of 2017. Internal complaints recorded by the DPD decreased by 25%, from 67 in the first half of 2017 to 50 in the first half of 2018.

Figure 1.1: Complaints Recorded, First Halves of 2015–2018



As we have noted in previous reports, it is difficult to explain fluctuations in the number of complaints filed over time. Complaint patterns 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

Individual complaints can include one or more specifications, which reflect the rules that a DPD officer might be disciplined for violating.⁷ Table 1.1 presents the most common internal and community complaint specifications from the first half of 2018, as well as the first halves of the previous three years. The most common specifications recorded by IAB in the first half of 2018 were Duty to Obey Department Rules and Mayoral Executive Orders and Responsibilities to Serve the Public.

Table 1.1: Most Common Specifications, First Halves of 2015–2018

Specification	1st Half 2015	1st Half 2016	1st Half 2017	1st Half 2018
Duty to Obey Departmental Rules and Mayoral Executive Orders	21%	22%	30%	24%
Responsibilities to Serve Public	26%	20%	22%	23%
Discourtesy	19%	19%	14%	15%
Inappropriate Force	12%	12%	10%	15%
Unassigned	4%	5%	8%	7%
Rough or Careless Handling of City and Department Property	0%	2%	3%	5%
Conduct Prohibited by Law	3%	2%	2%	4%
Conduct Prejudicial	1%	3%	1%	2%
Failure to Make, File, or Complete Official Required Reports	1%	3%	3%	1%
Failure to Give Name and Badge Number	3%	5%	1%	1%
All Other Specifications	10%	8%	6%	3%
Total Number of Specifications	481	353	509	317

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

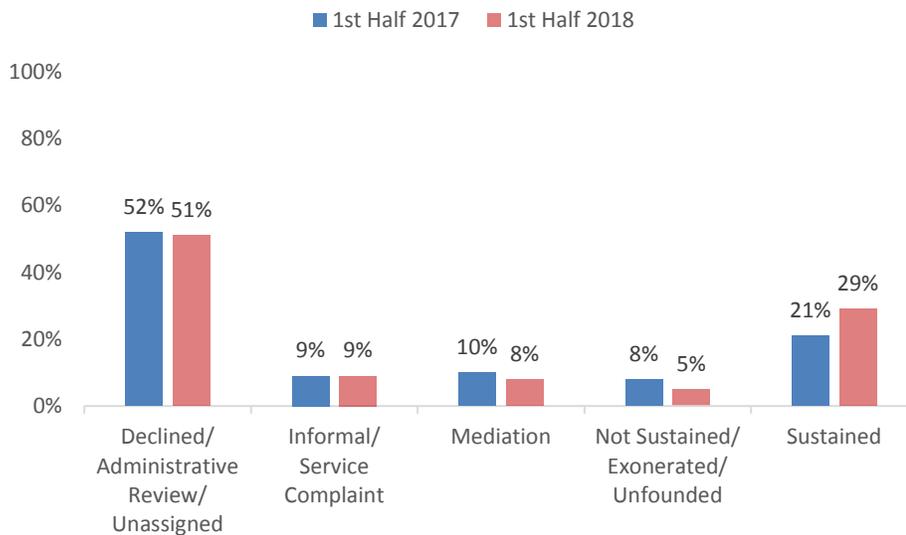
Duty to Obey Department Rules and Mayoral Executive Orders is a specification that covers a wide range of possible violations, including, but not limited to, unconstitutional search and seizure, improper handling of evidence and personal property, and violations of the DPD's BWC Policy.⁸ In fact, the percentage of Duty to Obey Department Rules and Mayoral Executive Orders specifications in the first half of 2018 is lower than the first half of 2017, in part, because the DPD recorded fewer potential BWC Policy violations. IAB generally adds this specification when its investigation into other allegations reveals that an officer may have failed to activate his or her BWC when such activation was required by DPD

policy.⁹ In the first half of 2018, the DPD recorded 9 BWC Policy specifications, compared to 55 BWC Policy specifications recorded in the first half of 2017.

Complaint Screening Decisions and Findings

A total of 221 complaints were closed in the first half of 2018. Figure 1.2 shows the outcomes of these complaints as well as the outcomes of complaints closed during the same time period in 2017. Outcomes in the first half of 2018 are generally similar to those in the first half of 2017. However, a larger percentage of complaints were closed with at least one sustained specification in the first half of 2018, and a smaller percentage were mediated or closed with findings of not sustained, exonerated, or unfounded.

Figure 1.2: Outcomes of Closed Complaints, First Halves of 2017 and 2018



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

Significant Disciplinary Cases Closed in the First Half of 2018^{10, 11}

Resignations and Retirements

■ On April 22, 2017, an officer worked an off-duty job at a high school prom where he had a conversation with a seventeen-year-old high school student. The officer was allegedly very persistent about asking the student where she lived and went unannounced to the apartment where the student and her mother lived on two separate occasions without any legitimate law enforcement purpose. The officer also allegedly violated department policy by using the National Crime Information Center/Colorado Crime Information Center criminal records database to query the student's license plate for non-criminal justice purposes and allegedly made false statements to IAB during its investigation into his contact with the student. The officer resigned before discipline was imposed.

■ From July 1, 2016 through July 31, 2017, an officer took eight days of bereavement leave related to four deaths that she claimed had taken place in her family. When asked for documentation of the deaths, the officer allegedly told a commander that she had lied about two of them. The officer resigned prior to a disciplinary finding as part of a settlement agreement with the Department of Safety ("DOS"). Per the agreement, the officer was paid a severance of 50 days of her regular salary.

■ On May 20, 2018, an off-duty officer was pulled over for failing to drive in a single lane in another jurisdiction. After refusing to perform roadside maneuvers, the officer was arrested and subsequently charged with Driving Under the Influence, Failure to Drive in a Single Lane, and Prohibited Use of Weapons, for having a loaded handgun in the center console of his vehicle. The officer resigned prior to a disciplinary finding.

Other Significant Cases, Including Suspensions of 10 or More Days

■ On May 31, 2016, an officer was sentenced to 18 months' probation in another jurisdiction for Driving While Ability Impaired.¹² On April 17, 2017, a case manager filed a petition to revoke the officer's probation after the officer allegedly violated the terms and conditions of his probation that required him to submit to urinalysis ("UA") testing for alcohol. The officer had missed scheduled UA screens and several of his UA screens were either diluted or positive for alcohol. The officer also failed to obey department rules by not notifying his supervisor, command

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officer, or IAB that he had been required to appear in court and that he was facing revocation of his probation. The officer entered into a settlement agreement with the DOS whereby he was suspended for 60 days, but served a 20-day suspension with 40 days held in abeyance for two years on the condition that he commit no further serious rule violations. The agreement also required the officer to abstain from the use of alcohol or controlled substances for two years and participate in the DPD's Resiliency Program, which provides support services to officers struggling with alcohol, controlled substances, or mental health issues.

■ On April 28, 2017, a lieutenant responded to an outreach center where a hostile crowd had gathered around officers processing the scene of a stolen vehicle. The lieutenant walked around two officers who were handling the situation without using force, approached an individual in the crowd who had been restrained by two other community members, and sprayed him with oleoresin capsicum ("OC") spray, despite the individual not interfering with an arrest or posing a threat of injury to anyone. The lieutenant was suspended for 10 days for using inappropriate force. He has appealed this suspension.

■ On August 4, 2017, upon exiting a district station, a detective ("Detective A") elbowed another detective ("Detective B") who was entering the station, and then asked, "what's your problem?" The two detectives had a history of unprofessional encounters in the past. Detective A then made deceptive statements to IAB during its investigation of the elbowing incident. Detective A entered into a settlement agreement with the DOS whereby he was suspended for 16 days with termination held in abeyance for 18 months on the condition that he commit no further serious rule violations.

■ On August 11, 2017, a sergeant made sexually inappropriate remarks to an officer during roll call, which made the officer uncomfortable. The remarks were heard by other officers who were present. The sergeant was suspended for 10 days for violating the DOS's Equal Employment Opportunity Policy.

■ On August 15, 2017, an officer was directed to manage the scene of a traffic accident involving a fuel tanker truck and a passenger van. The officer's responsibilities included assessing the seriousness of the accident victims' injuries and contacting the DPD Traffic Investigations Bureau ("TIB") if any injuries involved serious bodily injury or death. Eleven individuals were ultimately transported to hospitals following the accident, including five who were classified as having serious, life-threatening conditions. However, the officer did not contact the TIB until approximately two-and-a-half hours after his arrival to the scene of the accident and, when he did so, he characterized the injuries as "bumps and

bruises and a laceration or two.” As a result, the TIB unit did not respond to the scene until more than seven hours after the accident occurred, which likely compromised the accident investigation. The officer, whose penalty was increased due to his discipline history and significant aggravating factors, was suspended for a total of seven days for conduct prejudicial and for violating DPD policy regarding traffic accidents. He has appealed this suspension.

■ On September 11, 2017, a commander used inappropriate and unprofessional language in addressing a civilian employee during a meeting about an upcoming job vacancy. The commander was suspended for 10 days for conduct prejudicial.

■ On October 21, 2017, an off-duty officer was charged in another jurisdiction with Driving Under the Influence and Failure to Drive in a Single Lane. The officer pled guilty to a reduced charge of Driving While Ability Impaired. The officer was suspended for 10 days for conduct prohibited by law.

■ On November 18, 2017, an officer did not report to his assigned shift until 90 minutes after it was scheduled to begin and did not notify a supervisor that he would be late. The next day, the officer did not report to his assigned shift at all and did not call a supervisor to report that he would not be at work. These actions defied a commander’s order that required the officer to speak directly with a supervisor each time he was going to be absent, to address supervisors’ concerns about the officer’s unexcused absences from work. The officer, whose penalty was increased due to his disciplinary history, was suspended for a total of 33 days for disobeying an order and failing to report his absence prior to roll call.

■ On November 21, 2017, several officers responded to a parking lot on a call of a suicidal person. The person was sitting in his car, when an officer (“Officer A”) ordered him to turn it off. The person began to drive away and another officer (“Officer B”) hit the person’s car with his patrol vehicle. Officer B then initiated a pursuit and attempted a Pursuit Intervention Technique (“PIT”) maneuver to stop the individual’s car. The person fled the parking lot and a sergeant terminated the pursuit. According to the DOS’s Departmental Order of Disciplinary Action (“Discipline Order”), a Chief of Police Written Command imposed a six-day suspension on Officer B for violating the DPD’s Pursuit Policy when he initiated the pursuit, rammed the individual’s car, and attempted a PIT maneuver without prior supervisor approval.¹³ The DOS entered into a settlement agreement with Officer B that modified this penalty to a three-day suspension in exchange for Officer B taking responsibility for the rule violations and waiving his right to appeal the penalty.

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■ On November 21, 2017, while driving to the scene of a robbery, an officer (“Officer A”) stopped a juvenile with an active felony warrant for burglary. Officer A patted down the front of the juvenile’s pants, searched his pockets, and placed him in a patrol car. Officer A transported the juvenile to the DPD’s Juvenile Intake, where a second officer (“Officer B”) conducted a cursory pat down of the juvenile. The juvenile was then transported to Gilliam Youth Detention Center, where a loaded gun was confiscated from his waistline. According to the DOS’s Discipline Order, Chief of Police Written Commands imposed 10-day suspensions on Officers A and B for violating the DPD’s general arrest procedures when they failed to conduct thorough searches of the juvenile. The DOS modified these penalties to four-day suspensions based on Officers A and B agreeing to accept the reduced penalties and waiving further disciplinary process, as well as having no significant prior disciplinary history and taking responsibility for their conduct.

■ On January 1, 2018, an officer reported that her work bag, containing her DPD-issued Taser, had been stolen out of her personal car. The officer indicated that she had given her car keys to a friend who needed to retrieve some items left in the car. The DPD items were allegedly taken from the car after the officer’s friend forgot to lock it. The officer, whose penalty was increased due to her disciplinary history, was suspended for a total of 10 days for careless handling of department property and for violating the DPD’s less lethal weapons procedures.

Appeals of Significant Discipline Imposed Prior to January 1, 2018, and Decided by a Hearing Officer or the Civil Service Commission in the First Half of 2018

The DPD had no appeals of significant discipline decided by a Hearing Officer or the Civil Service commission in the first half of 2018.¹⁴

Commendations and Awards

DPD officers regularly engage in actions that reflect the 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 2018. The most common commendations recorded in the first half of 2018 were Commendatory Action Reports and Citizen Letters. Table 1.3 provides definitions for select commendations.

Table 1.2 Commendations Awarded to DPD Officers, First Half of 2018

Commendation Type	Count	Percentage
Commendatory Action Report	74	47%
Citizen Letter	29	18%
Distinguished Service Cross	10	6%
Medal of Valor	9	6%
Preservation of Life	8	5%
Top Cop	6	4%
Commendatory Letter	5	3%
Purple Heart	3	2%
Community Service Award	2	1%
Medal of Honor	2	1%
Officer of The Year	2	1%
Unassigned	2	1%
Above + Beyond Award	1	1%
Life Saving Award	1	1%
Meritorious Service Ribbon	1	1%
Official Commendation	1	1%
Other than DPD Commendation	1	1%
Total	157	100%

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

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Table 1.3: Commendation Types and Descriptions

Commendation Type	Description
Medal of Honor	Awarded by the Chief of Police 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 by the Chief of Police 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 by the Chief of Police 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 by the Chief of Police 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 by the Chief of Police 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 by the Chief of Police 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 or personal finance, 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 by the Chief of Police 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	Presented 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 Commendations¹⁵

MEDAL OF HONOR/PURPLE HEART

Officers responded to a burglary in progress. Upon arriving at the scene, the officers took one suspect into custody, but a second suspect fled. During the chase, the suspect began to fire at an officer, and she returned fire. The officer realized that she had been wounded in the exchange and found a cover position. She was transported to Denver Health with serious injuries, from which she has since recovered. For her display of bravery in helping to stop the suspect and heroism as she engaged a dangerous suspect after having been wounded, the officer was awarded the Medal of Honor and Purple Heart Award.

MEDAL OF VALOR

Three officers and a sergeant responded to a call of a suicidal individual who had soaked himself in lighter fluid and was attempting to light himself on fire in a public park. As the officers and sergeant attempted to subdue the individual, he set himself on fire and began to run toward other civilians in the park. The officers and sergeant restrained the man and began to extinguish the flames with their bare hands. Paramedics who responded to the scene noted that the quick and heroic action of the officers and sergeant saved the individual's life. The officers and sergeant were awarded the Medal of Valor for their quick thinking and heroism in saving a suicidal individual and protecting nearby community members.

PRESERVATION OF LIFE

An officer responded to a call of a juvenile in possession of a handgun. After the officer pursued the juvenile, the juvenile pointed the handgun at the officer. Holding the juvenile at gunpoint, the officer ordered the juvenile to drop the handgun. After a long pause, the juvenile put down the weapon. The officer's patience and good judgment during the encounter resulted in a successful resolution with no injury to himself or the juvenile, and he was awarded the Preservation of Life Award.

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DISTINGUISHED SERVICE CROSS

A sergeant responded to a call for assistance from the Aurora Police Department in pursuit of a homicide suspect. As the sergeant and the Aurora officers moved to arrest the suspect, the suspect shot and wounded an Aurora Police Department officer. The sergeant left his cover position to attend to the wounded officer, applying first aid to control bleeding. He loaded the officer into his police vehicle and transported the officer to a hospital. The sergeant was awarded the Distinguished Service Cross for his heroism as he protected a fellow officer from an armed suspect while rendering immediate life-saving efforts.

TOP COP

Two officers (“Officer A” and “Officer B”) responded to a call of a suicidal individual threatening to jump from a multi-floor parking garage. The officers went to the floor where the individual was located and approached as closely as they safely could. Officer A asked the individual a question, which briefly distracted him. During the distraction, Officer A grabbed the individual and, with the assistance of Officer B, pulled him away from the ledge. For placing themselves at risk to save the life of a distraught person, the officers were awarded the Top Cop Award.

Commendatory Action Report

A technician was flagged down by an individual who believed he was having a heart attack. The individual informed the technician that he was concerned that if he left his car unattended to seek medical treatment his car would be towed. The technician called for emergency medical assistance and secured the individual’s car at a nearby hotel after arranging for free parking. The individual was admitted to Denver Health Medical Center and underwent emergency surgery. The individual was extremely appreciative of the technician’s assistance. The technician received a Commendatory Action Report.

2

Denver Sheriff Department Monitoring

Introduction

The OIM is responsible for monitoring and reporting on Denver Sheriff Department (“DSD”) complaints and commendations.¹⁶ In this chapter, we review patterns relating to the DSD’s complaints, investigations, findings, and discipline.

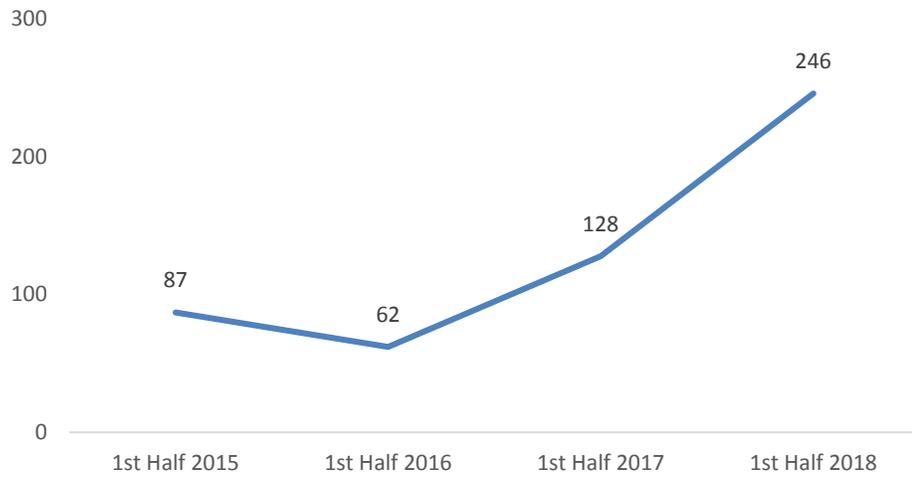
Complaints Recorded in the First Half of 2018

Figure 2.1 reports the number of complaints recorded by the DSD during the first half of 2018 and the first halves of the previous three years.^{17, 18} These numbers do not include most scheduled discipline cases, such as when DSD deputies misuse leave time or fail to participate in firearms training or qualification.¹⁹ In the first half of 2018, the DSD recorded 246 total complaints against deputies, a 92% increase from the first half of 2017.

This increase is likely related to the DSD’s revision of its Internal Affairs and Civil Liabilities Bureau Procedures to define a complaint as “any formal verbal or written statement, including a grievance, that alleges misconduct by any employee of the DSD” and to require “all complaints and allegations of misconduct . . . be recorded, and the investigative progress tracked” in IAB’s complaint tracking database.²⁰ This definitional change is consistent with national law enforcement best practices, which recommend that all allegations of serious misconduct be recorded and tracked within one central case tracking system.²¹

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Figure 2.1: Complaints Recorded, First Halves of 2015–2018



The OIM Commends the DSD for its Visitation Workgroup and Proposal to Reinstate In-Person Visits

Under current DSD policy, inmates are permitted to visit with family and friends only via telephone or video, and are not generally permitted to have face-to-face, in-person visits.²² Instead, inmates use video terminals in the jail housing areas, and visitors communicate with them from corresponding video terminals in the jail lobbies.²³

In its 2017 Semiannual Report, citing national standards and research on the numerous benefits of contact visits, the OIM recommended that the DSD begin developing a plan to reinstate contact visits in Denver’s jails.²⁴ Thereafter, the DSD convened a visitation workgroup (“Workgroup”) to explore how to implement the recommendation.²⁵ The Workgroup, which was led by DSD Chief Elias Diggins, met for the first time in December 2017 and included representatives from the DSD, DPD, Mayor’s Office, Denver City Council, District Attorney’s Office, community, OIM, and Citizen Oversight Board, among others. The Workgroup met almost every other week for four months, and in February 2018, members visited the Las Colinas Detention and Reentry Facility in San Diego, California to tour a jail whose visitation center is considered by many to be a national model.

In April 2018, the Workgroup shared an in-person visitation proposal (“Visitation Proposal”) with Sheriff Patrick Firman that provided a plan for reinstating in-person visitation by identifying potential locations, costs, and staffing requirements. The Visitation Proposal recommended the DSD reinstate in-person visits at the Denver County Jail (“DCJ”) and explore a process by which Denver Detention Center (“DDC”) inmates eligible for in-person visits could be moved back and forth to the DCJ until in-person visitation is available at the DDC. In September 2018, Mayor Hancock released his 2019 Mayor’s Proposed Budget, which included funding for the construction necessary to reinstate in-person visitation at the DCJ.²⁶

The OIM commends the DSD for forming a diverse Workgroup consisting of DSD personnel, staff from other city agencies, and community members. The Workgroup quickly assessed the challenges of reinstating in-person visitation and prepared a sensible proposal that the OIM supports.

Most Common Complaint Specifications

Individual complaints can include one or more specifications, which reflect the rules that DSD deputies might be disciplined for violating.²⁷ Table 2.1 reports common specifications recorded against DSD deputies in the first half of 2018 and the first halves of the previous three years. The most common specification was “Unassigned.” Because the DSD finalizes each case’s specifications during the discipline review phase, 20% of the specifications associated with complaints recorded in the first half of 2018 were “Unassigned” at the time the OIM extracted data for this report.²⁸ The second most common specification, Disobedience of Rule, prohibits deputies from violating “any lawful Departmental rule (including [Career Service Authority] rules), duty, procedure, policy, directive, instruction, or order (including Mayor’s Executive Order)” and covers a wide range of potential misconduct.²⁹

Table 2.1: Most Common Specifications, First Halves of 2015–2018

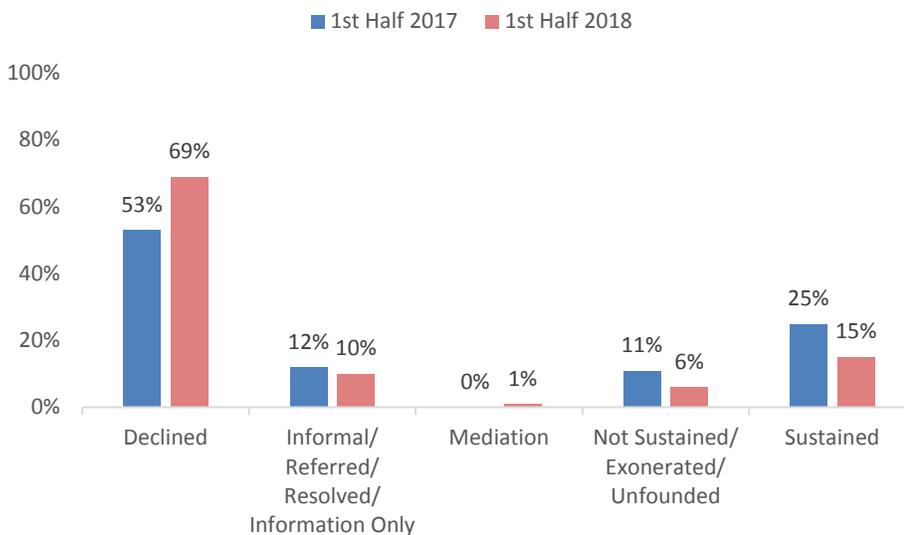
Specification	1st Half 2015	1st Half 2016	1st Half 2017	1st Half 2018
Unassigned	1%	6%	16%	20%
Disobedience of Rule	9%	15%	12%	17%
Inappropriate Force	21%	12%	13%	13%
Sexual Misconduct	1%	1%	3%	6%
Discrimination, Harassment, or Retaliation against Prisoners	5%	4%	4%	5%
Discrimination, Harassment, and Retaliation	1%	0%	3%	5%
Full Attention to Duties	5%	3%	5%	3%
Collective Bargaining Fair Share Fee	2%	0%	0%	2%
Conduct Prejudicial	1%	3%	4%	2%
Discourtesy	5%	2%	1%	2%
Protecting Prisoners from Physical Harm	2%	0%	1%	2%
Failure to Perform Duties	6%	4%	0%	2%
All Other Specifications	42%	49%	37%	19%
Total Number of Specifications	174	140	293	495

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

Complaint Screening Decisions and Findings

The DSD closed a total of 192 complaints in the first half of 2018. Figure 2.2 reports the final outcome of these complaints as well as the outcome of complaints closed during the same time period in the first half of 2017. A larger percentage of complaints were declined for further investigation in the first half of 2018 than in the first half of 2017, and a smaller percentage were closed with at least one sustained finding. These differences may be related, in part, to changes in IAB’s complaint handling process, which now requires that all allegations of serious misconduct be recorded as complaints.³⁰

Figure 2.2: Outcomes of Closed Complaints, First Halves of 2017 and 2018



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

Significant Disciplinary Cases Closed in the First Half of 2018^{31, 32}

Non-Medical Disqualifications

■ On November 6, 2017, a deputy was arrested in another jurisdiction for Felony Menacing – Weapon. The other jurisdiction issued a mandatory protection order prohibiting the deputy from possessing a firearm. Because carrying a firearm is an essential function of a deputy, the deputy was disqualified from employment with the DSD.

Resignations and Retirements

■ On May 11, 2017, two deputies working in a maximum-security housing unit (“Deputy A” and “Deputy B”) allegedly failed to ensure an inmate’s safety when they opened his cell door and allowed another inmate to enter, leading to a brief altercation between the two inmates. Deputy A resigned prior to a disciplinary finding, and Deputy B’s case was resolved informally with the requirement that he attend a meeting with DDC command staff to review the incident.

■ On June 27, 2017, a sergeant was on his way to work at the DDC when the car behind him struck his vehicle’s rear bumper. The sergeant allegedly followed the car to a parking lot, exited his vehicle, drew his firearm, and pointed it at the other driver, despite a DSD policy that generally prohibits deputies from engaging in law enforcement duties. The sergeant allegedly made deceptive statements to IAB during its investigation of the incident. The sergeant resigned prior to a disciplinary finding.

■ On November 17, 2017, IAB was notified that a deputy was allegedly engaging in secondary employment while he was receiving worker’s compensation. The deputy entered into a settlement agreement and resigned prior to a disciplinary finding.

■ A deputy (“Deputy A”) had two cases alleging misconduct. In the first case, on July 15, 2017, Deputy A and another deputy (“Deputy B”) were working in a restrictive housing unit for inmates classified as the most difficult to manage. Deputy A and Deputy B were watching a movie while two inmates began harassing a third inmate in a locked cell by spitting on him through the door flap and kicking the cell window. The activity continued for more than 50 minutes while the deputies took no action to protect the inmate. Deputies A and B agreed to accept

the recommended discipline and waive their rights to appeal mitigated penalties totaling six suspended days for inappropriate computer use, failing to pay full attention to their duties, and failing to protect prisoners from physical harm. They were also required to complete one week of remedial Field Training Officer/Direct Supervision training.

In the second case, on January 26, 2018, Deputy A was alleged to have failed to protect an inmate from being assaulted by two other inmates at the DDC. Deputy A resigned prior to a disciplinary finding in the second case.

Other Significant Cases, Including Suspensions of 10 or More Days

■ On December 17, 2016, two deputies (“Deputy A” and “Deputy B”) working in a housing unit reported to a sergeant that an inmate they suspected was intoxicated from drinking alcohol had threatened them and covered his windows with toilet paper, preventing them from being able to visually monitor him. The sergeant chose not to conduct a search for the alcohol or enter the inmate’s cell to remove the toilet paper. Instead, he ordered the deputies to knock on the inmate’s window to get a verbal response from him during rounds. The windows remained covered for several hours before Deputy A entered the cell and found that the inmate had attempted suicide by cutting his throat with a piece of a safety razor. Prior to entering the inmate’s cell, the deputies had not conducted all required rounds of the housing unit and failed to use the hand-held scanner to electronically track completed rounds as is required by policy. Deputy A also submitted an inaccurate report in which he purported to have completed rounds that were not conducted.

Deputy A was suspended for a total of 10 days for inaccurate reporting, violating a housing post order requiring the deputy to use the hand-held scanner to document rounds, and failing to make required rounds. Deputy B was suspended for a total of four days for violating a housing post order requiring the deputy to use the hand-held scanner to document rounds and failing to make required rounds. The sergeant was suspended for four days for failing to supervise, perform his assigned duties, and comply with DSD policies and rules. Deputies A and B appealed, and in June 2018, a Hearing Officer affirmed Deputy A’s 10-day suspension, and modified Deputy B’s four-day suspension to a one-day suspension and a written reprimand.

■ On June 16, 2017, a deputy (“Deputy A”) used sick leave to leave work early and travel to Las Vegas, Nevada. Deputy A called the next day to report that he was sick and would not be at work for his scheduled shift to supervise offenders who participate in a work program at the courthouse rather than serve time in jail.

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Deputy A failed to make arrangements for someone else to cover his shift, and the program participants who reported to work that morning were sent home. On June 18 and 19, 2017, a second deputy (“Deputy B”), who also went on the trip with Deputy A, called to inform a scheduler that he would not be reporting for his shifts. Deputy B did not have preapproved compensatory or vacation time for either of these shifts, so he was paid with sick leave. Deputy A received a 10% reduction in pay for 10 pay periods and was suspended for six days for feigning illness and conduct prejudicial, respectively.³³ He has appealed this discipline. Deputy B received a 10% reduction in pay for 10 pay periods for feigning illness.

■ On July 13, 2017, a deputy was assigned to a housing unit that she had not worked in previously. She told a sergeant and captain that she would rather go home sick than work in the housing unit for which she had not been trained. The deputy also used inappropriate language when talking with the captain. The deputy then left the DDC and did not finish her shift. In total, the deputy received a mitigated penalty of a four-day suspension for insubordination and conduct prejudicial. The penalty was reduced, in part, because of the deputy’s willingness to waive her right to appeal.

■ On November 9, 2017, a deputy was working in a housing unit as inmates were being served breakfast. The deputy prevented an inmate from getting coffee because the inmate had brought the wrong cup. The inmate returned with the correct cup, and the deputy told him that he could not have coffee because the breakfast line was closed. After a verbal exchange, during which the deputy escalated the situation by using harassing language towards the inmate, the deputy told the inmate to leave his food tray on a table and go sit in the hall. When the inmate did not comply with the deputy’s order, the deputy slapped the inmate’s food tray, causing the inmate to be covered in food. The deputy, whose penalty was increased due to his prior discipline history, was suspended for 30 days for harassment of prisoners and required to take a Critical Incident Training course. The deputy appealed, and in July 2018, a Hearing Officer affirmed his suspension. The deputy has appealed that decision to the Career Service Board.

■ On November 21, 2017, a deputy was working in a housing unit when a fight began between four inmates. The deputy responded to the cell and used his OC spray on two of the four inmates. Although the inmates ceased fighting as soon as the deputy entered the room, the deputy filed a report claiming that he used the OC spray to stop the fighting after the inmates did not listen to verbal commands. An investigation into the incident revealed that shift logs from the time before and after the incident listed four completed rounds that the deputy had not conducted

and the deputy had not provided a written explanation for missing them as is required by policy. The deputy received a written reprimand, a two-day suspension, and a 10% reduction in pay for 10 pay periods for inaccurate reporting, violating a housing post order requiring the deputy to document the reasons for missing a round, and failing to make required rounds, respectively.

Appeals of Significant Discipline Imposed Prior to January 1, 2018, and Decided by a Hearing Officer or the Career Service Board in the First Half of 2018^{34, 35}

■ On July 31, 2011, an inmate who had been badly scalded by other inmates approximately two weeks earlier approached a deputy to reiterate prior requests for medical attention and the deputy told him to return to his cell. The deputy forcefully led the inmate back to his cell and pushed him inside, at which time the inmate turned toward the deputy and said something to him. The deputy then lunged at the inmate, grabbed him by the neck, and forced him onto the cell bed by the neck. The deputy also pushed the inmate's head into a wall, took him to the ground, and pushed his head toward the ground.

There was no credible evidence that the inmate posed a threat to necessitate this use of force. The deputy later admitted to being angry at the inmate and finding him “annoying.” He denied choking the inmate and instead characterized his actions as a restraint to gain compliance, contrary to what could be seen in video footage of the incident. There were additional discrepancies between the deputy's statements to IAB and what he said at a deposition while under oath. The deputy was terminated for several violations of DSD policy. He appealed, and in June 2018, a Hearing Officer affirmed the deputy's termination. The deputy has appealed this decision to the Career Service Board.

■ In November 2011, a male captain (“Captain A”) received a 75-day suspension for making inappropriate sexual gestures to a female captain (“Captain B”). Captain A appealed, and in August 2012, a Hearing Officer modified the discipline to a 30-day suspension. Captain A and the DOS appealed the Hearing Officer's decision, which was affirmed by the Career Service Board in January 2013. The DOS then appealed to the District Court, which reversed the Career Service Board decision and remanded the case back to the Career Service Board. Captain A appealed that decision to the Colorado Court of Appeals, which remanded the case back to the Hearing Officer.³⁶ In May 2017, the Hearing Officer again determined that only a 30-day suspension was warranted. Captain A again appealed to the

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Career Service Board, which affirmed the Hearing Officer's decision in September 2017.³⁷

■ On October 17, 2015, a deputy working in the medical unit at the DDC told a suicidal inmate to “just die” when the inmate asked him what he should do. When a nurse walked by moments later, the deputy giggled and told her that what he had said was not very professional. The deputy was suspended for 10 days. The deputy appealed the decision, and it was reversed by a Hearing Officer in December 2016. The DOS appealed that decision to the Career Service Board, which reversed the Hearing Officer's decision and remanded the case back to a Hearing Officer to determine the appropriateness of the penalty imposed by the DOS. The Hearing Officer affirmed the appropriateness of the deputy's 10-day suspension in April 2018. The deputy has appealed this decision to the Career Service Board.

■ On November 1, 2015, two deputies (“Deputy A” and “Deputy B”) were working in a special management housing pod. They failed to inform medical or a supervisor when an inmate threatened to commit suicide. The inmate had previously attempted suicide, thus he 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. The inmate used the pencil to mime stabbing himself. He also wrote a note stating that an “officer showed [him] how to hang [himself],” and held the note in front of the camera. The inmate ultimately 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. Specifically, Deputy A misrepresented the amount of time that had passed between when the inmate told Deputy A he was going to kill himself and when Deputy A responded, to give the impression that Deputy A responded more quickly. Deputy A also omitted that the inmate had warned him of how the inmate planned to kill himself before the suicide attempt. Deputy A was suspended for a total of 30 days for failing to protect a prisoner from physical harm and for making misleading or inaccurate statements. Deputy A appealed. His appeal was resolved by settlement and his penalty was reduced to a 10-day suspension. Deputy B was also suspended for 30 days. He appealed, and a Hearing Officer reversed Deputy B's discipline in August 2017. The DOS appealed that decision to the Career Service Board, but subsequently withdrew its appeal.

■ On January 28, 2016, a deputy (“Deputy A”) was supervising inmates in corridor holding cells and engaged in an argument with an inmate regarding a blanket. Deputy A 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, slamming him onto a counter, striking him, and grabbing him by the neck. 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 in June 2017. The deputy appealed to the Career Service Board, which affirmed the Hearing Officer’s decision in November 2017.³⁸ The deputy has appealed that decision to the Denver District Court.

■ On August 18, 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. The deputy appealed to the Career Service Board, which affirmed the Hearing Officer’s decision in November 2017.³⁹

■ On October 16, 2016, two deputies (“Deputy A” and “Deputy B”) were working at the DDC in a special management unit that houses inmates who have severe mental illnesses, are in segregation, or require separation from other inmates. The deputies were serving a meal tray to an inmate through a flap in the secured cell door when the inmate put his arms through the flap and refused to pull them back into his cell. The deputies used verbal commands to try to persuade the inmate to pull his arms back into the cell, but the inmate left his arms in the flap. Instead of walking away and continuing meal service to the remainder of the unit, the deputies tried to push one of the inmate’s arms back and then used two sets of Orcutt Police Nunchaku (“OPNs”) to apply pressure to the inmate’s arm to get him to withdraw it. The inmate sustained injuries to his hand and wrist from the use of force. Deputy A, whose penalty was mitigated due to his record with the DSD, was suspended for 18 days. Deputy B, whose penalty was increased due to his disciplinary history, was suspended for 60 days. Both deputies appealed, and in March 2018, a Hearing Officer reduced Deputy A’s 18-day suspension to a written reprimand and Deputy B’s 60-day suspension to a 30-day suspension. This decision was appealed to the Career Service Board.

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■ On November 22, 2016, a civilian security specialist working at the DDC contacted a supervisor and requested to go home early because he was not feeling well. Two sergeants (“Sergeant A” and “Sergeant B”) subsequently interacted with the security specialist. Both sergeants were told by another supervisor that the security specialist had medical issues and was taking medication. While the sergeants made contact with the security specialist, both noticed that he seemed confused and was very unstable when he walked. The sergeants escorted the security specialist into an elevator and then out of the building, where they had him driven home by a deputy. Afterwards, Sergeants A and B talked to another sergeant about their concerns that the security specialist might have been intoxicated. Six days later, the security specialist admitted to DSD command staff that he brought alcohol to work and drank it while on-duty on the day of the incident. In their IAB interviews, Sergeant A said he noted a “weird smell” and Sergeant B reported a “sweet smell” while they were in the elevator. Yet, despite both sergeants observing signs of possible intoxication, neither sergeant required the security specialist to submit to drug and alcohol testing, even though they were required by policy to do so.⁴⁰ Sergeants A and B made deceptive statements to IAB during its investigation of the incident. Sergeants A and B were terminated. Both sergeants appealed, and in March 2018, a Hearing Officer affirmed their terminations. The sergeants appealed that decision to the Career Service Board.⁴¹

■ 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 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, the woman’s familial and political ties, and that the woman would be turning herself in.

On September 8, 2016, the woman turned herself in. The former Executive Director of Safety 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 both appealed their demotions, and the sergeant appealed his suspension. A Career Service Hearing Officer modified the former division chief's demotion to a 30-day suspension, affirmed the former captain's demotion, and affirmed the sergeant's suspension. The former captain and the sergeant appealed to the Career Service Board, which affirmed the former captain's demotion in April 2018. The sergeant's appeal is still pending with the Career Service Board.

Commendations and Awards

Deputies are given commendations and awards for noteworthy 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 sworn DSD personnel in the first half of 2018.⁴²

Table 2.2 Commendations Awarded to DSD Deputies, First Half of 2018

Commendation	Number	Percentage
PRIDE Award	14	61%
Employee of the Month Award	9	39%
Total Number of Commendations	23	100%

Highlighted Commendations⁴³

- A deputy received an Employee of the Month Award for her outstanding work ethic and ability to complete many complex tasks quickly and accurately. The deputy keeps her unit's morale high and communicates with staff, deputies, and inmates in a professional manner.
- A deputy received a Personal Responsibility in Delivering Excellence ("PRIDE") Award for finding a weapon and preventing a situation that could have been dangerous to inmates and staff.
- A deputy received a PRIDE Award for taking the initiative to put together a roster for a post unexpectedly needed at Denver Health.
- A deputy received an Employee of the Month Award for her dedication, hard work, and commitment to the DSD's guiding principles. Her knowledge of the DSD's policies and procedures allows her to be assigned anywhere, and the housing units she supervises are clean and quiet.

3 Critical Incidents

Introduction and Overview

Officer-involved shootings (“OISs”) and deaths in custody (collectively “critical incidents”) have a profound impact on the lives of both community members and officers, and on the overall relationship between law enforcement and the community. All investigations into critical incidents should be completed thoroughly and efficiently with a goal of determining whether the incidents were handled lawfully and according to departmental policy. To promote transparency in the investigation and review of critical incidents, the OIM publishes regular reports regarding the status of critical incident investigations.⁴⁴

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. For OISs, a representative from the Aurora Police Department responds as well.⁴⁵ 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 collect 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 a critical incident, the Major Crimes Unit reports are submitted to the DPD's IAB to commence the administrative review. The OIM confers with IAB to determine whether further investigation is necessary to evaluate potential violations of DPD 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 DPD policy. 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, the case is closed and no further administrative action is taken.

If the Use of Force Review Board finds that the officer's actions were in violation of any DPD 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 DOS for 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 DOS, which makes the final decision regarding critical incidents.

DPD Officer-Involved Shootings (January 1–June 30, 2018)

Incident #1

On January 26, 2018, officers were dispatched to a Regional Transport District Park-n-Ride where two juvenile armed robbery suspects were reported to be exiting a bus. Officers attempted to contact the suspects, who split up and ran from the officers. An officer and a corporal pursued one of the suspects on foot, while other officers followed in police vehicles. The corporal repeatedly commanded the suspect to stop running and to show his hands, but the suspect did not comply. He continued to run from officers with his hand concealed in the front pocket of his hooded sweatshirt. A sergeant attempted to intervene by driving his police vehicle alongside the suspect. The suspect collided with the police vehicle, fell, and then stood up with a gun in his hand. The officer ordered the suspect to put the gun down, but the suspect directed the gun toward the officer. The officer fired four shots, hitting the suspect in the left hand. The 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](#).⁴⁶ The incident is currently under administrative review.

Incident #2

On February 6, 2018, officers responded to a report of a burglary in progress. When the officers first entered the residence, the suspect was hiding in a bedroom in the house. For almost 30 minutes, a recruit officer, who was in a hallway leading to the bedroom, attempted to de-escalate the situation by talking to the suspect. Toward the end of the encounter, the suspect darted out of the bedroom and briefly stood in the hallway, holding a large knife. The officers ordered the suspect to drop the knife. The suspect did not comply and ran into an adjacent bathroom. Approximately three minutes later, the suspect came out of the bathroom screaming and ran toward the officers who were in a living room at the end of the hallway, holding the large knife in his right hand. A corporal discharged a round when the suspect was six to eight feet away. The corporal saw the suspect still advancing and fired a second round. The suspect died as a result of the gunshot wounds.

The Denver District Attorney reviewed the incident and declined to file charges against the involved corporal. The District Attorney prepared a detailed letter

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reviewing the shooting, which can be found [here](#).⁴⁷ The incident is currently under administrative review.

Incident #3

On February 13, 2018, an officer responded to an emergency family disturbance with a possibly armed suspect. Upon arriving at the home, a family member told the officer that the suspect had tried to kill their father. The officer went to the open front door and saw the suspect standing over the father, who was lying in a bed several feet from the front door. The suspect was holding a knife and a handgun. The officer repeatedly told the suspect to drop the gun, but he refused. The suspect remained agitated, standing over the father while pointing the gun at the father's head. After more than three minutes, the suspect began a countdown and appeared to lean towards the father. The suspect shot five rounds at the father, fatally wounding him. The officer fired eight rounds, wounding the suspect twice in the abdomen. The suspect died several hours later as a result of the gunshot wounds.

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](#).⁴⁸ The incident is currently under administrative review.

Incident #4

On March 13, 2018, a DPD detective was involved in an OIS in Arapahoe County. The incident is currently under administrative review.

Incident #5

On March 19, 2018, three officers were involved in an OIS. The incident is currently under review by the Denver District Attorney.

Incident #6

On April 25, 2018, officers responded to a detective's request to arrest an armed robbery suspect who was considered "armed and dangerous." The suspect was driving a vehicle with a passenger, and when an officer ("Officer A") activated the emergency lights of his patrol car to stop the vehicle, the suspect accelerated and attempted to drive between two lanes of stopped traffic. The suspect's vehicle hit several cars and came to a stop. Officer A approached the vehicle from the driver's side, a second officer ("Officer B") approached from the passenger's side, and a third officer ("Officer C") remained in his patrol car. The suspect reached down and

attempted to clear a malfunction in his firearm. Officer B called out that the suspect had a gun, ordered the suspect to put it down, and observed the suspect start to turn towards him. Officer B fired eight rounds at the suspect. Officer C observed the suspect lower the gun and look towards Officer B and fired six rounds at the suspect through the windshield of his patrol car. Officer A heard Officer B call out that the suspect had a gun, heard gunshots, and felt a stinging on the side of his head, which was later determined to be caused by glass from the windshield of Officer C's patrol car. Officer A fired three rounds at the suspect. The suspect was struck 16 times and died. The passenger was grazed once in the arm and 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](#).⁴⁹ The incident is currently under administrative review.

Incident #7

On June 13, 2018, a convenience store clerk flagged down two officers while they were driving their patrol car. As the officers exited their car, the clerk told the officers that he had just been robbed and that the fleeing suspect was armed. The officers saw the suspect moving away from the convenience store carrying a cash drawer, and they began to pursue. Seconds later, the suspect fired his handgun five times at the officers, wounding one of the officers and a bystander. The wounded officer responded by firing 13 rounds at the suspect. The suspect was struck and died as a result of the gunshot wounds.

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](#).⁵⁰ The incident is currently under administrative review.

DPD Critical Incidents Closed (January 1–June 30, 2018)⁵¹

Closed Incident #1

On May 20, 2017, officers responded to a call of a suicidal male who had been drinking alcohol, had reportedly cut himself, and possibly planned to commit “suicide by cop.” A sergeant (“Sergeant A”) began speaking with and made multiple requests of the male, who was in his garage with the door open, to come out and show his hands. The male did not comply with Sergeant A's commands. A second sergeant (“Sergeant B”) and an officer took positions outside the garage, while

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Sergeant A continued to communicate with the male. The male finally exited the garage and quickly turned the corner, coming face-to-face with the officer. The officer deployed his Taser and, nearly simultaneously, the male shot the officer. Sergeant B then fired five shots at the male, who was struck five times. Both the officer and the male sustained serious bodily injury from gunshot wounds but survived.

The Denver District Attorney reviewed the incident and declined to file charges against Sergeant B. The District Attorney prepared a detailed letter reviewing the shooting, which can be found [here](#).⁵² The DPD's Use of Force Review Board met on April 25, 2018, and the OIM provided advice and recommendations. The Use of Force Review Board determined the shooting to be in-policy. The OIM concurred. The shooting was referred to the Tactics Review Board.

Closed Incident #2

On June 18, 2017, officers were dispatched to a call of felony menacing. When the officers arrived, the suspect fled in a vehicle. Several officers responded and pursued the suspect, and the chase entered another jurisdiction. Two DPD officers ("Officer A" and "Officer B") and a corporal pursued the suspect closely in their police vehicles and attempted to contact him. The suspect showed a rifle and a handgun out his car window during the pursuit, at times pointing the handgun at the pursuing officers. The suspect turned sharply into a parking lot, and Officer B forcefully collided with the suspect's car, pinning it next to a pickup truck, ending the pursuit. Officer B exited his police vehicle, and he and the corporal yelled commands to the suspect. Officer B heard three muffled sounds that he thought were gunshots and fired 16 rounds at the suspect. The corporal, who believed that he and Officer B were being shot at, fired as many as 12 rounds at the suspect, who was struck but suffered only minor wounds and survived.⁵³

The District Attorney for the 18th Judicial District (where the incident occurred) reviewed the incident and declined to press charges against the involved officers. The District Attorney prepared a detailed letter reviewing the shooting, which can be found [here](#).⁵⁴ The DPD's Use of Force Review Board met on April 25, 2018, and the OIM provided advice and recommendations. The Use of Force Review Board determined the shooting to be in-policy. The OIM had concerns about the tactics used during the incident but concurred with the in-policy decision. The shooting was referred to the Tactics Review Board.

Closed Incident #3

On September 8, 2017, a witness attempted to stop a suspected theft of a car in the parking lot of his workplace. The witness knocked on the driver's-side window, and a male in the driver's seat lifted his shirt and took hold of a pistol tucked in his pants. The witness backed away and called police.

One officer responded to the call, with the knowledge that a robbery was in progress and that the suspect had pulled a gun on the reporting party. When the officer arrived, he saw the suspect moving the car back and forth but appeared unable to properly operate the car. The officer exited his police vehicle, drew his handgun, and gave the suspect multiple commands to stop the car and show his hands, but the suspect did not comply. The suspect put the car into reverse, ran over two parking blocks, and may have hit a nearby fence. The suspect then drove the car back and forth in an attempt to free it from the parking blocks and get away.

The officer saw the suspect, who was still in the car, reach down and appear to retrieve something. He then saw that the suspect had a handgun in his right hand and was moving the gun in the officer's direction. Fearing that the suspect would fire at him, the officer fired his weapon at the suspect once through the driver's side window, striking him in the left cheek. After being shot, the suspect continued to pull the car forward a short distance. He then stopped and put his hands out of the broken window. The 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](#).⁵⁵ The DPD's Use of Force Review Board met on April 25, 2018, and the OIM provided advice and recommendations. The Use of Force Review Board determined the shooting to be in-policy. The OIM concurred. The shooting was referred to the Tactics Review Board.

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, 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 collect 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 an 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 DSD 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 DOS.

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. Recommendations from the Sheriff and the OIM are forwarded to the DOS for consideration. The DOS determines whether the deputy's actions were in-policy or out-of-policy and the appropriate level of discipline, if any.

DSD Critical Incidents

The DSD had no critical incidents occur or close in the first half of 2018.

Endnotes

¹ Denver Revised Municipal Code Art. XVIII §§ 2-371(b), 2-386.

² Sworn DPD staff, including supervisors, are collectively referred to as “officers” throughout the report, unless otherwise noted.

³ The data reported in this chapter were extracted from the DPD’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 6, 2018.

⁴ 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.

⁵ Scheduled discipline violations include Failure to Appear in Court, Failure to Shoot for Efficiency, Photo Radar Violations, Safety Restraining Devices, Required Minimum Annual Continuing Education, CEP Cancellation/CEP Failure to Attend, Preventable Accidents, and Punctuality. See DPD Discipline Handbook: Conduct Principles and Disciplinary Guidelines § 12.4 (effective May 3, 2018).

⁶ See DPD Operations Manual Section (“OMS”) 119.04(12) (revised Sept. 15, 2017) (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, a journal entry and a meeting with a supervisor; the second violation a written reprimand; and the third violation one fined day.).

⁷ 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, 23 specifications associated with complaints recorded in the first half of 2018 were unassigned.

⁸ DPD Discipline Handbook: Conduct Principles and Disciplinary Guidelines, Rules and Regulations, at 12 (effective May 3, 2018).

⁹ See DPD OMS 119.04(3) (revised Sept. 15, 2017).

Endnotes

¹⁰ In this section, “officer” refers only to those personnel with the title “officer” at the time of the incident. Sworn staff with other titles, such as “sergeant,” are noted throughout the summaries.

¹¹ Complaints with significant discipline closed in the first half of 2018 may not be included in this section if they were summarized in the OIM’s 2017 Annual Report.

¹² As detailed in the OIM’s 2016 Annual Report, the officer was suspended for 16 days for this incident.

¹³ The DOS Departmental Orders of Disciplinary Action for several of the complaints summarized in this section included information about the DOS’s decisions to modify Chief of Police Written Commands and impose reduced penalties. Because this information was included in the Departmental Orders of Disciplinary Action, the OIM summarizes both the Written Commands as well as the DOS’s decision to modify the recommended penalties.

¹⁴ The Civil Service Commission provided the OIM with summary data about appeals filed by DPD officers or by the DOS regarding DPD officers on July 10, 2018.

¹⁵ In this section, “officer” refers only to those personnel with the title “officer” at the time of the incident. Sworn staff with other titles, such as “sergeant,” are noted throughout the summaries.

¹⁶ Denver Revised Municipal Code Art. XVIII §§ 2-371(b), 2-375(a).

¹⁷ Unless otherwise noted, the data for this chapter were obtained from the DSD’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 6, 2018.

¹⁸ 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.

¹⁹ Scheduled discipline violations include Unauthorized Leave and Failure to Participate in Required Firearms Qualification/Training. See DSD Discipline Handbook: Conduct Principles and Disciplinary Guidelines, Appendices G and H (updated Oct. 15, 2017). In its previous reports, the OIM included Unauthorized Leave complaints in the tables, figures, and discussions of recorded and closed complaints.

²⁰ DSD Internal Affairs and Civil Liabilities Bureau Procedures §§ 101, 200(3), 302(5) (effective Oct. 2017).

²¹ See, e.g., U.S. Dep’t of Justice, Office of Community Oriented Policing Services, Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice, at 17 (“Every complaint should be tracked through final disposition. The tracking system should be automated . . . and capable of capturing . . . information regarding the complaint important for case tracking.”); Commission on Accreditation for Law Enforcement Agencies, Standard 52.1.2 (requiring “a

written directive [that] requires the agency to maintain a record of all complaints”); International Association of Chiefs of Police National Law Enforcement Policy Center, *Investigation of Employee Misconduct*, at 11 (2007) (“In addition to its conduct of, or participation in, investigations of alleged misconduct, [investigating agencies] should . . . maintain a central file of complaints received.”).

²² DSD Department Order 1.00.1017 § (4)(D)(2) (effective Dec. 27, 2017) (stating that “[c]ontact and through-the-glass visits may, from time to time be approved based on special needs and according to each division’s established procedures.”); see also DDC and County Jail Visit Schedules (stating that “ALL VISITS ARE VIDEO VISITS ONLY (no contact visits)”).

²³ Michael Sakas, *Denver Jails Reconsider In-Person Visitation After Watchdog Says Video-Only is Inhumane*, Colorado Public Radio News (Dec. 7, 2017).

²⁴ OIM, 2017 Semiannual Report, at 18.

²⁵ Danika Worthington, *Denver Sheriff Department to Consider Bringing Back In-Person Visits with Working Committee Next Week*, The Denver Post (Nov. 29, 2017).

²⁶ City and County of Denver, 2019 Mayor’s Proposed Budget, at 148 (Sept. 2019).

²⁷ 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.

²⁸ The fact that the DSD finalizes specifications during the discipline review phase also explains why the total number of specifications from prior years and some of the associated percentages reported here differ from those presented in the OIM’s 2017 Semiannual Report.

²⁹ DSD Discipline Handbook: Conduct Principles and Disciplinary Guidelines, Appendix F at 10 (updated Oct. 15, 2017).

³⁰ DSD Internal Affairs and Civil Liabilities Bureau Procedures §§ 101, 200(3), 302(3)(a) (effective Oct. 2017).

³¹ 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.

³² Complaints with significant discipline closed in 2018 may not be included in this section if they were summarized in the OIM’s 2017 Annual Report.

³³ According to the DOS’s disciplinary orders for this complaint, a 10% reduction in pay for 10 pay periods is equivalent to a 10-day suspension. The DSD Discipline Handbook does not provide direction on the circumstances in which temporary reductions in pay are appropriate penalties. DSD Discipline Handbook: Conduct Principles and Disciplinary Guidelines § 6.1 (updated Oct. 15, 2017).

³⁴ Summary data on appeals filed by DSD deputies or by the DOS regarding DSD deputies were provided to the OIM by the Career Service Hearing Office on July 10, 2018.

Endnotes

³⁵ Appeals of significant discipline imposed prior to January 1, 2018, and decided by a Hearing Officer or the Career Service Board in the first half of 2018 may not be included in this section if they were summarized in the OIM's 2017 Annual Report.

³⁶ 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 DOS's original discipline decision. The Career Service Board then remanded the case to the Hearing Officer to make that determination.

³⁷ The Career Service Board's decision was ordered in September 2017 and documented in April 2018.

³⁸ The Career Service Board's decision was ordered in November 2017 and documented in May 2018.

³⁹ The Career Service Board's decision was ordered in November 2017 and documented in June 2018.

⁴⁰ Executive Order No. 94, City and County of Denver Employee's Alcohol and Drug Policy, which requires supervisors to consult with Human Resources, their department's Safety Officer, or the City Attorney's office if they suspect an employee is under the influence of alcohol or impaired by legal drugs (e.g., prescription medication). If immediate consultation is not possible, the supervisor is required to initiate drug or alcohol testing of the employee.

⁴¹ The security specialist was ultimately disqualified from his position. The OIM did not monitor the handling of his conduct because he is a civilian employee.

⁴² Data on DSD commendations were provided by the DSD Data Science Unit.

⁴³ 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 "sergeant," are noted throughout the summaries.

⁴⁴ When community members die in the custody of the DPD or DSD of natural causes, the OIM has not historically reported on those deaths.

⁴⁵ Denver District Attorney Beth McCann, Officer-Involved Shooting Protocol 2017, at 1.

⁴⁶ Decision Letter from Denver District Attorney Beth McCann to Denver Police Chief Robert White (Apr. 24, 2018), <https://www.denverda.org/wp-content/uploads/decision-letter/2018/Decision-letter-re-Officer-Involved-Shooting-of-Juvenile-Jan-26-2018.pdf> (regarding the investigation of the shooting of J.V.).

⁴⁷ Decision Letter from Denver District Attorney Beth McCann to Denver Police Chief Robert White (June 12, 2018), <https://www.denverda.org/wp-content/uploads/decision-letter/2018/Decision-Letter-for-Officer-Involved-Shooting-Death-of-Alex-Duran-Feb-6-2018-1.pdf> (regarding the investigation of the shooting death of Alex Duran).

⁴⁸ Decision Letter from Denver District Attorney Beth McCann to Denver Police Chief Robert White (May 22, 2018), <https://www.denverda.org/wp-content/uploads/decision-letter/2018/Decision-Letter-for-Officer-Involved-Shooting-Death-of-Peter-Le-Feb-13-2018.pdf> (regarding the investigation of the shooting death of Peter Le).

⁴⁹ Decision Letter from Denver District Attorney Beth McCann to Denver Police Chief Paul Pazen (Aug. 9, 2018), <https://www.denverda.org/wp-content/uploads/news-release/2018/Decision->

[Letter-for-Officer-Involved-Shooting-Death-of-Charles-Boeh-Death-April-25-2018.pdf](#)

(regarding the investigation of the shooting death of Charles Boeh).

⁵⁰ Decision Letter from Denver District Attorney Beth McCann to Denver Police Chief Paul Pazen (Sept. 12, 2018), <https://www.denverda.org/wp-content/uploads/decision-letter/2018/Decision-Letter-for-Officer-Involved-Shooting-Death-of-Carnell-Nelson-June-13-2018.pdf> (regarding the investigation of the shooting death of Carnell Nelson).

⁵¹ Critical incidents closed in the first half of 2018 may not be included in this section if they were summarized in the OIM's [2017 Annual Report](#).

⁵² Decision Letter from Denver District Attorney Beth McCann to Denver Police Chief Robert White (Sept. 29, 2017), <https://www.denverda.org/wp-content/uploads/decision-letter/2017/Decision-Letter-re-Officer-Involved-Shooting--May-20--2017.pdf> (regarding the investigation of the shooting of Brandon Gerwing).

⁵³ Evidence at the scene indicates that at least 27, and possibly 28, rounds were fired. Only 27 cartridge cases were recovered. The DA concluded that “[Corporal C] fired as many as 12 rounds.” Decision Letter from 18th Judicial District Attorney George Brauchler to Denver Police Chief Robert White and Aurora Police Chief Nicholas Metz, at 6 (Sept. 26, 2017).

⁵⁴ Decision Letter from 18th Judicial District Attorney George Brauchler to Denver Police Chief Robert White and Aurora Police Chief Nicholas Metz (Sept. 26, 2017), <http://www.da18.org/2017/09/report-on-june-18-2017-shooting-in-aurora/> (regarding the investigation of the shooting of Keith Alfounso Roberts).

⁵⁵ Decision Letter from Denver District Attorney Beth McCann to Denver Police Chief Robert White (Nov. 9, 2017), <https://www.denverda.org/wp-content/uploads/decision-letter/2017/Decision-letter-re-Officer-Involved-Shooting--September-8--2017.pdf> (regarding the investigation of the shooting of Sergio Casimiro-Mejia).



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