



DENVER
OFFICE OF THE
INDEPENDENT MONITOR

2019 Semiannual Report

Nicholas E. Mitchell
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.

OIM Staff:

Policy

Matthew Buttice, Policy Director

James Davis, Senior Policy Analyst

Alyssa Perez Morrison, Policy Analyst

Monitors

Gregg Crittenden, Senior Deputy Monitor

Nate Fehrmann, Deputy Monitor

Deborah Klein, Deputy Monitor

Kevin Strom, Deputy Monitor

Denis McCormick, Deputy Monitor

Community Outreach/Administration

Gianina Horton, Youth Outreach Manager

Teniqua Pope, Case Manager

Asiya Mustefa, Youth Outreach Coordinator

Carol Rolfe, Office Administrator

Juan Evangelista, Youth Outreach Coordinator

Contents

1	<i>Denver Police Department Monitoring</i>	1
	Complaints Recorded	2
	Most Common Complaint Specifications	3
	Complaint Screening Decisions and Findings	4
	Significant Disciplinary Cases Closed	5
	Appeals of Significant Discipline	7
	Commendations and Awards	8

2	<i>Denver Sheriff Department Monitoring</i>	13
	Complaints Recorded	13
	Most Common Complaint Specifications	16
	Complaint Screening Decisions and Findings	17
	Significant Disciplinary Cases Closed	18
	Appeals of Significant Discipline	22
	Commendations and Awards	25

3	<i>Critical Incidents</i>	27
	Critical Incidents: Denver Police Department	28
	DPD Officer-Involved Shootings	29
	DPD Accidental Discharges	31
	Deaths During DPD Contact	31
	DPD Critical Incidents Closed	32
	DPD Accidental Discharges Closed	35
	Critical Incidents: Denver Sheriff Department	36

1 Denver Police Department Monitoring

Introduction

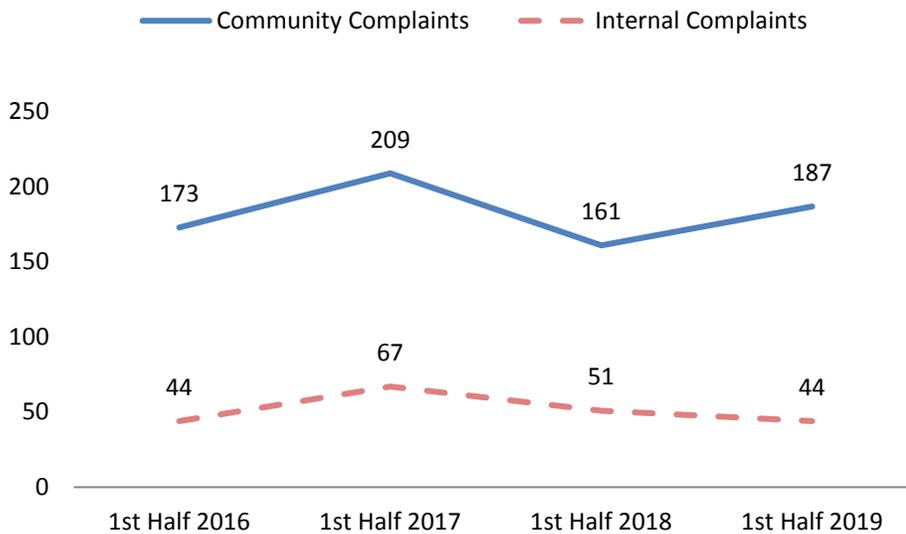
The Office of the Independent Monitor (“OIM”) is responsible for monitoring Denver Police Department (“DPD”) investigations into complaints involving sworn personnel and for ensuring that the complaint process is accessible to all community members.¹ Having an accessible complaint process is critical for several reasons. First, complaints provide the DPD with information it may use to hold officers accountable when they do not live up to the DPD 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 and officer education initiatives. Finally, an open complaint process tends to foster community confidence in the police, which enables officers to effectively perform their important public safety function.

In this chapter, we review information about the DPD’s complaints, investigations, findings, discipline, and commendations.

Complaints Recorded in the First Half of 2019

Figure 1.1 presents the number of complaints recorded by the DPD during the first half of 2019 and the first halves of the previous three years.^{2,3} 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 violations of the DPD’s Body Worn Camera (“BWC”) Policy.^{4,5} The DPD recorded 187 community complaints in the first half of 2019, a 16% increase from the first half of 2018. Internal complaints recorded by the DPD decreased by 14%, from 51 in the first half of 2018 to 44 in the first half of 2019.

Figure 1.1: Complaints Recorded, First Halves of 2016–2019



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

Individual complaints can include one or more misconduct specifications, which reflect the rules that a DPD officer might be disciplined for violating. Table 1.1 presents some of the most common complaint specifications from the first half of 2019 and the first halves of the previous three years.⁶ The most common specifications recorded by the DPD in the first half of 2019 were Duty to Obey Departmental Rules and Mayoral Executive Orders and Discourtesy.

Table 1.1: Most Common Specifications, First Halves of 2016–2019

Specification	1st Half 2016	1st Half 2017	1st Half 2018	1st Half 2019
Duty to Obey Departmental Rules and Mayoral Executive Orders	23%	33%	26%	36%
Discourtesy	20%	15%	15%	18%
Inappropriate Force	13%	11%	15%	14%
Responsibilities to Serve Public	21%	23%	23%	12%
Conduct Prohibited by Law	1%	1%	4%	3%
Failure to Make, File, or Complete Official Required Reports	3%	3%	2%	3%
Rough or Careless Handling of City and Department Property	2%	3%	5%	3%
Conduct Prejudicial	3%	1%	2%	2%
Service Complaint	1%	1%	3%	2%
Failure to Give Name and Badge Number	5%	1%	1%	1%
All Other Specifications	9%	7%	4%	7%
Total Number of Specifications	346	482	311	346

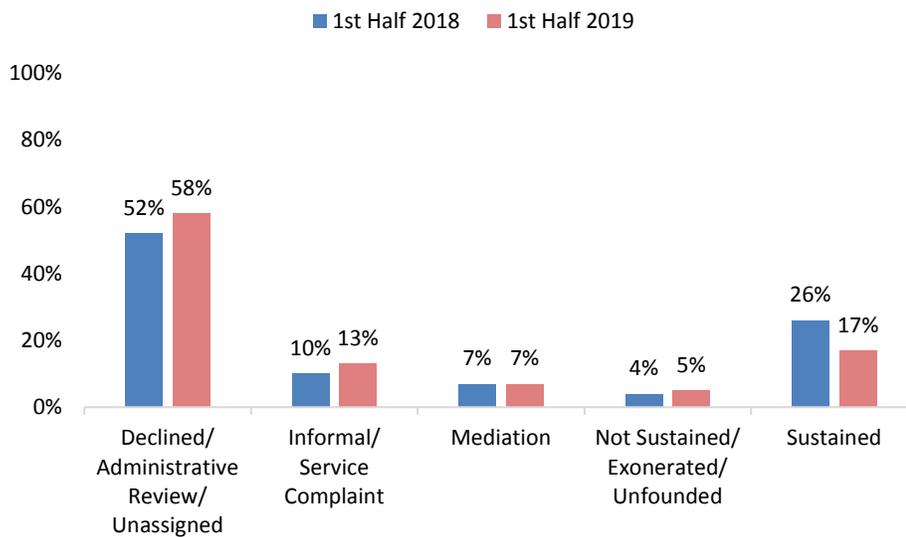
Note: Percentages may not sum to 100 due to rounding.

Duty to Obey Departmental 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.⁷ Discourtesy is a specification used when officers are alleged to have violated a rule requiring them to be “orderly, attentive, respectful, and exercise patience and discretion in the performance of their duties.”⁸

Complaint Screening Decisions and Findings

In the first half of 2019, the DPD closed a total of 235 complaints. Figure 1.2 shows the outcomes of these complaints and the outcomes of complaints closed during the same period in 2018. In the first half of 2019, the DPD closed a larger percentage of complaints as declines, informals, or service complaints and a smaller percentage with at least one sustained finding than in the first half of 2018.

Figure 1.2: Outcomes of Complaints Closed, First Halves of 2018 and 2019



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

Significant Disciplinary Cases Closed in the First Half of 2019⁹

Terminations

■ On July 3, 2018, a male officer made inappropriate sexual comments to a female civilian intern assigned to participate in a ride along with the officer. During the ride along, the officer referred to the intern as a “prostitute” in the presence of a community member, discussed genital hair removal, and called her the “hot blonde intern” and a “whore.” The officer also expressed excitement about giving the intern “mouth-to-mouth.” The officer was terminated for conduct prejudicial and for violating the Department of Safety (“DOS”) Equal Employment Opportunity Policy for making pervasive, graphic, and sexually-oriented comments to an intern over whom he was in a position of authority. He appealed his termination, and it was affirmed by a Hearing Officer in September 2019.

Other Significant Cases, Including Suspensions of Ten or More Days

■ On September 3, 2018, an officer responded to the location of an arrest where a crowd had gathered. A person approached the officer, and the officer yelled at the person to back up. The person continued to walk towards the officer, and the officer used a baton to push him off of the sidewalk. After the officer pushed him back, the person maintained his distance from the location of the arrest. A short time later, the officer used a baton to push the person again and challenged him to a fight. The officer, whose penalty was increased due to his disciplinary history, was suspended for a total of seven days for inappropriate force and conduct prejudicial.

■ On September 17, 2018, an officer went home without taking sick leave or seeking supervisor approval. During the internal affairs investigation of the incident, the officer acknowledged that over the past several months he had left his district to go home, while on duty, without approval. The officer also acknowledged that, while on duty, he had left the city limits to check on repairs being done to his personal car. He also admitted that there were times when his log sheets were inaccurate because they showed he was at a certain location when, in fact, he was at home. The officer was suspended for a total of 30 days for conduct prejudicial and loitering, and fined a total of 5-days’ pay for leaving his geographic area of responsibility and failing to accurately complete required entries in his log sheets.

Chapter 1 :: DPD Monitoring

■ On September 23, 2018, an officer responded to a call of an auto theft in progress. The officer tried to detain a person matching the suspect's description, grabbing the person's arm. A sergeant, who observed the interaction as he approached, grabbed the person's other arm while the person continued to resist. The sergeant used an unauthorized "front headlock" to take the person to the ground. Once on the ground, the sergeant's arm remained under the front of the person's throat while he laid on the person's head and shoulders, which resulted in the person losing consciousness. The sergeant was suspended for 30 days for using inappropriate force when he used an unauthorized control hold that applied direct pressure to the person's throat, head, and neck. He appealed his suspension, and it was affirmed by a Hearing Officer in August 2019. The officer appealed that decision to the Denver District Court.

■ On November 1, 2018, two officers approached a person who had been driving a stolen vehicle wanted in connection with an armed robbery. After the person raised his hands and began to surrender, a technician deployed his police service dog. The technician failed to call the dog to return to him, which resulted in the dog biting the person's left arm. The technician was suspended for a total of 10 days for inappropriate use of force and for failing to make an effort to prevent his dog from biting an individual who had surrendered. The technician also received an oral reprimand for failing to activate his BWC during the incident.

■ On November 5, 2018, an officer left work early without supervisor approval and went to an adult entertainment club. The officer searched the names of a person who worked at the club and two others in the National Crime Information Center/Colorado Crime Information Center ("NCIC/CCIC") for non-law-enforcement purposes. The officer was suspended for 10 days and fined 2-days' pay for conduct prejudicial and for violating the DPD's NCIC/CCIC rules, respectively. His penalty for violating the NCIC/CCIC rules was increased due to his disciplinary history.

■ On January 3, 2019, an officer failed to report to work without prior authorization and did not communicate with a supervisor before the start of his shift that he would not be reporting. This action defied a commander's order that required the officer to speak to a supervisor prior to the beginning of a scheduled shift if he was to be late or unable to report. The officer was suspended for a total of 10 days for disobeying an order and failing to report his absence prior to the beginning of his scheduled shift. The penalty was increased due to two previous sustained violations for failing to follow this commander's order.

Appeals of Significant Discipline Imposed Prior to 2019 and Filed with or Decided by the Civil Service Commission in the First Half of 2019¹⁰

■ 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 a person in the crowd who had been restrained by two other community members, and sprayed him with oleoresin capsicum (“OC”) spray. The lieutenant used the OC spray despite the person 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 appealed this suspension, and it was affirmed by a Hearing Officer in November 2018. The officer appealed to the Civil Service Commission, which in June 2019, affirmed the Hearing Officer’s decision.

■ 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 people 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 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 disciplinary history, was suspended for a total of seven days for conduct prejudicial and for violating DPD policy regarding traffic accident investigations. He appealed this suspension, and it was affirmed by a Hearing Officer in May 2019.

Commendations and Awards

The DPD gives commendations and awards to officers whose actions rise above the expected standards of key departmental values, such as 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 2019. The most common commendations recorded in the first half of 2019 were Commendatory Action Reports and Commendatory Letters. Table 1.3 provides definitions for select commendations.

Table 1.2 Commendations Awarded to DPD Officers, First Half of 2019

Commendation Type	Count	Percentage
Commendatory Action Report	80	39%
Commendatory Letter	47	23%
Official Commendation	29	14%
Unassigned	23	11%
Citizen Letter	11	5%
Life Saving Award	5	2%
Community Service Award	2	1%
Merit Award	2	1%
Other than DPD Commendation	2	1%
Courage Award	1	< 1%
Excellence in Crime Prevention	1	< 1%
Unit Commendation	1	< 1%
Total	204	100%

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

Table 1.3: Select 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 demonstrates personal initiative and ingenuity by developing a program or plan which contributes significantly to the department's crime prevention strategy, or through innovation 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.
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 Commendations

Lifesaving Award

Several officers responded to an apartment to check on the welfare of a suicidal person. One of the officers saw the person sitting on the railing of his apartment patio 10 floors up with his feet dangling off the side. The officer entered the apartment and found the person still sitting on the railing. While keeping a safe distance, the officer introduced himself and pleaded with the person to move his legs off the railing. After several minutes, the person began leaning over the railing even more, and the officer quickly grabbed the person and brought him safely onto the patio. The officer was given a Lifesaving Award for his actions.

Official Commendation

An officer from another jurisdiction stopped an off-duty corporal, who was riding a bike on a multi-use trail, to inform the corporal that he was searching for a suspect who had just committed a residential burglary. The corporal told the officer he was an off-duty DPD officer and began to assist in the search. He found fresh foot prints in the snow and followed them until he found a person hiding behind a snow bank who matched the description of the suspect. The corporal detained the person until the officer was able to take him into custody. For his willingness to serve and help his community, even when off duty, the corporal was awarded an Official Commendation.

Community Service Award

Two officers responded to a call of a person living in an alley. One of the officers developed a rapport with the person and learned that he wanted help getting back in touch with his family members who lived out of state. During the next month and a half, the officer helped the person reunite with his family. After an exhaustive search, the officer found the person's sister, contacted her, and assisted the person with contacting her by phone. The officer also worked with the Mental Health Center of Denver ("MHCD") to get the person a bus ticket to visit his sister. On the day of his departure, the officer drove the person to pick up his bus ticket at the MHCD, took him to the bus station, and sat with him until he got on the bus. The officer was awarded the Community Service Award for her selfless actions in helping reconnect a person with his family.

Commendatory Action Report

A person called the DPD to commend two officers for their assistance. On Thanksgiving Day, the officers paid for a hotel room for the person and her child. The person was stunned that they used their own money to help her and wanted to thank the officers. The two officers received Commendatory Action Reports.

Citizen Letter

A manager of a local business wrote to commend an officer for his quick, professional response to a call. A security guard had noticed a suspicious person on camera at the location of the business and reported the person to the DPD's non-emergency line, and the officer responded. Having seen the person casing the location before, the officer detained the person. The manager wanted to express that it is comforting to know that the DPD has professional, caring officers looking out for the safety of community businesses.

Chapter 1 :: DPD Monitoring

2

Denver Sheriff Department Monitoring

Introduction

The OIM is responsible for monitoring and reporting about patterns in Denver Sheriff Department (“DSD”) complaints and commendations.¹¹ In this chapter, we review information about the DSD’s complaints, investigations, findings, discipline, and commendations.

Complaints Recorded in the First Half of 2019

Figure 2.1 reports the number of complaints recorded by the DSD during the first half of 2019 and the first halves of the previous five years.^{12,13} 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.¹⁴ In the first half of 2019, the DSD recorded 132 total complaints against deputies, a 46% decrease from the first half of 2018.¹⁵

Chapter 2 :: DSD Monitoring

Figure 2.1: Complaints Recorded, First Halves of 2014–2019

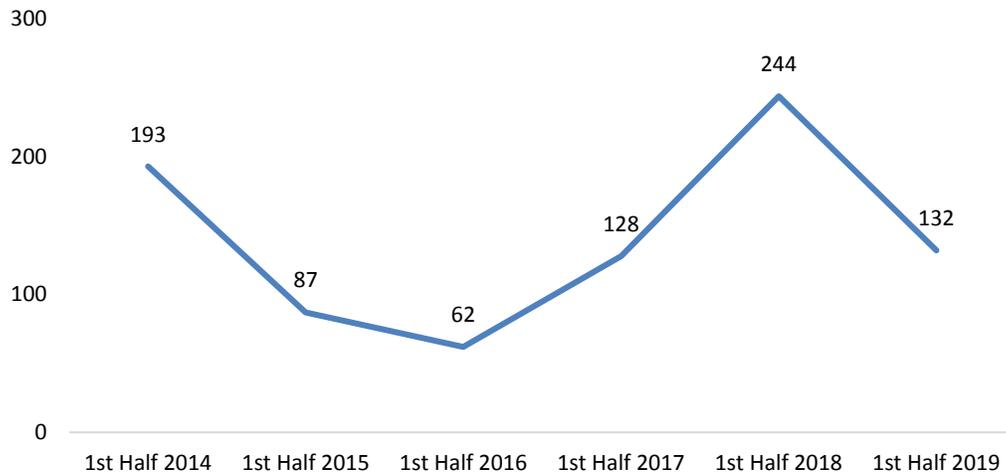
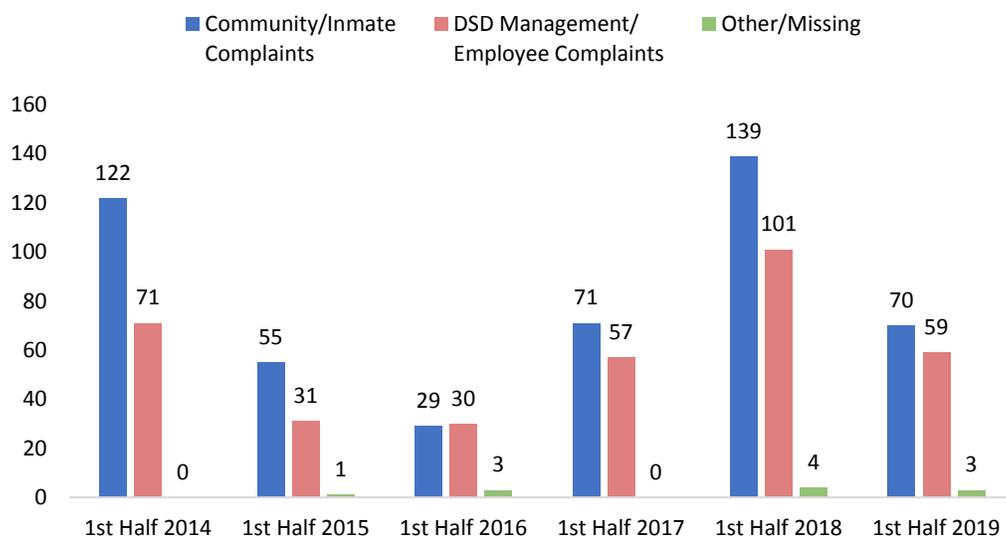


Figure 2.2 shows the number of complaints recorded against deputies by complaint type and year. The number of community member and inmate complaints that were recorded in the first half of 2019 decreased by 50% when compared to the first half of 2018, and the number of internal complaints from DSD management and other employees decreased by 42%.

Figure 2.2: Complaints Recorded by Complaint Type, First Halves of 2014–2019



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. The OIM will continue to monitor this trend to better understand its causes.

Department of Safety Currently Revising Policies for Handling Complaints Against DSD Deputies

In December 2018, Mayor Michael B. Hancock and Executive Director of the DOS Troy Riggs announced the creation of a Public Integrity Division (“PID”) within the DOS, as a “civilian arm of the [DOS] that will be responsible for investigating complaints of misconduct for the [DSD] and reviewing investigations for potential rule violations.”¹⁶ The DOS appointed an Executive Advisory Board, which includes representatives from the labor organizations that represent DSD deputies under investigation, DSD, DPD, City Attorney’s Office, OIM, COB, and community. The Executive Advisory Board is currently meeting to recommend policies and procedures for the PID, including those that determine how complaints will be recorded and triaged. Final decisions regarding these policies will be made by Executive Director of the DOS Troy Riggs. The OIM will share its assessments of those policies once they have been finalized.

Most Common Complaint Specifications

Individual complaints may include one or more misconduct specifications, which reflect the rules that a DSD deputy might be disciplined for violating. Table 2.1 reports the most common specifications recorded against DSD deputies in the first half of 2019 and the first halves of the previous three years.¹⁷ The most common specification was Disobedience of Rule, which 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.¹⁸ The second most common specification was “unassigned.”

Table 2.1: Most Common Specifications, First Halves of 2016–2019

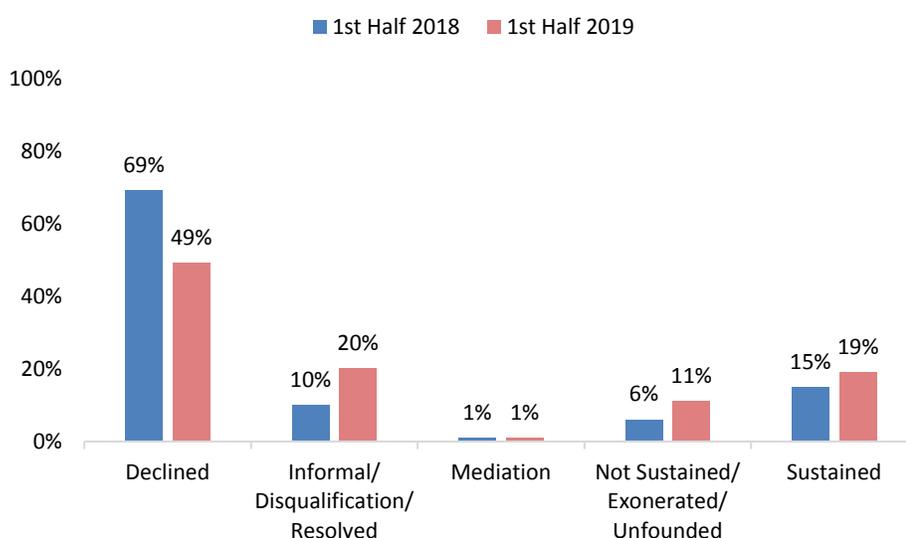
Specification	1st Half 2016	1st Half 2017	1st Half 2018	1st Half 2019
Disobedience of Rule	15%	12%	17%	20%
Unassigned	6%	16%	17%	19%
Use of Inappropriate Force Against Persons	12%	13%	13%	9%
Full Attention to Duties	3%	5%	4%	9%
Sexual Misconduct	1%	3%	7%	9%
Discourtesy	2%	1%	2%	3%
Conduct Prejudicial	3%	4%	3%	3%
Knowingly Making Misleading or Inaccurate Statements	1%	2%	1%	2%
Harassment of Prisoners	4%	1%	2%	2%
Abandoning Post	0%	1%	0%	2%
Commission of a Deceptive Act	4%	3%	1%	2%
All Other Specifications	48%	37%	33%	19%
Total Number of Specifications	140	291	514	280

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

Complaint Screening Decisions and Findings

In the first half of 2019, the DSD closed a total of 197 complaints. Figure 2.3 reports the final disposition of those complaints and the complaints closed in the first half of 2018. A smaller percentage of complaints were declined for further investigation in the first half of 2019 than in the first half of 2018. A corresponding larger percentage of complaints were closed with dispositions of informal, not sustained, exonerated, or sustained.

Figure 2.3: Outcomes of Complaints Closed, First Halves of 2018 and 2019



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

Significant Disciplinary Cases Closed in the First Half of 2019¹⁹

Terminations

■ On February 2, 2018, three deputies (“Deputy A,” “Deputy B,” and “Deputy C”) were assigned to the Van Cise-Simonet Detention Center (“DDC”) when an inmate with epilepsy had multiple seizures resulting in injury, including a knot on her forehead, a black eye, and multiple contusions on her face and arms. During this time, Deputy A did not conduct a required round and did not notify a supervisor or log the missed round. Deputies B and C later observed the inmate having a seizure in her cell, but neither deputy reported the incident to medical staff or documented it. While conducting a round later in the shift, Deputy B walked past the inmate’s cell without breaking stride and did not observe the inmate who, at that moment, fell from her bunk and hit her head against a wall. During the administrative investigation into the incident, Deputy B demonstrated a cavalier attitude, was uncooperative during her interview, and did not take responsibility for her actions.

Deputy A, whose penalty was increased due to her disciplinary history, received a 10% reduction in pay for 10 pay periods for failing to conduct her required rounds. Deputy B was terminated for failing to conduct a required round, improperly conducting a round, and for not following through with the numerous duties of her assignment. Deputy C received a 12-day suspension and a 10% reduction in pay for 10 pay periods for failing to use sound judgement and discretion in the performance of her duties. Deputies B and C appealed their discipline. During the appeal process, Deputy C entered into a settlement agreement with the DOS that reduced her penalty to an 18-day suspension.

Resignations and Retirements

■ A deputy (“Deputy A”) had two cases alleging misconduct. In the first case, on January 4, 2018, Deputy A and another deputy (“Deputy B”) were working in a housing unit, when an inmate who was supposed to be separated from other inmates (“Sep All”) returned from the medical unit. When the Sep All inmate entered the housing unit, neither deputy made any effort to escort him or separate him from another inmate who was present. The Sep All inmate assaulted the other inmate. Deputy A was suspended for six days for violating a housing post order requiring him to keep the Sep All inmate separated from other inmates. Deputy B, whose penalty was increased due to his disciplinary history, was suspended for 30 days for violating the same housing post order. Deputy A appealed his

suspension and subsequently entered into a settlement agreement with the DOS that reduced his penalty to a five-day suspension. Deputy B appealed, and in April 2019, a Hearing Officer affirmed his suspension. He has appealed that decision to the Career Service Board.

In the second case, on January 23, 2019, Deputy A escorted an inmate (“Inmate A”) with security alerts requiring that he be separated from other inmates and always be supervised by two deputies when out of his cell. Deputy A allegedly escorted Inmate A past another inmate (“Inmate B”) in the shower without the assistance of a second deputy. As Inmate A walked past, he ran into the shower and assaulted Inmate B. Deputy A resigned prior to a disciplinary finding in the second case.

■ On June 24, 2018, while off-duty in another jurisdiction, a deputy was allegedly involved in a verbal altercation with a community member. The community member called the local police, and an officer took a statement from the deputy. The deputy allegedly made deceptive statements to the officer. The Internal Affairs Bureau (“IAB”) investigation of the altercation revealed that, unrelated to the incident, the deputy had allegedly engaged in unauthorized secondary employment. The deputy resigned prior to a disciplinary finding.

Other Significant Cases, Including Suspensions of Ten or More Days

■ On January 6, 2018, a deputy did not check the shower area while conducting a round. Later in the shift, the deputy noticed that an inmate was missing from her cell. Instead of confirming the identity of the missing inmate and walking around the housing unit to locate her, the deputy walked back to her desk and called for back-up. Several minutes later, a responding deputy quickly found the inmate in the shower stall with a sheet tied around her neck. The inmate survived the suicide attempt. The deputy was suspended for a total of 14 days for failing to perform her duties and for failing to protect the inmate from harm. The deputy appealed, and in June 2019, a Hearing Officer affirmed her suspension. She has appealed that decision to the Career Service Board.

■ On January 23, 2018, an inmate told a volunteer General Educational Development (“GED”) instructor that he wanted to hang himself. The GED instructor reported this to a deputy and asked if counseling could be made available. The deputy told her that the inmate would have to ask for assistance on his own, and he took no action to notify a supervisor or have the inmate checked by medical or psychological staff, as policy required. Later, the GED instructor told a sergeant

Chapter 2 :: DSD Monitoring

about the inmate's suicidal statements, and the sergeant followed procedure by having the inmate psychologically screened.

The sergeant then contacted the deputy, who admitted that the GED instructor had told him that the inmate was suicidal. When asked to explain his inaction in response to this information, the deputy said that he had not known what to do since the inmate had not spoken to him directly. The deputy was later summoned to a captain's office, and he came with a representative. There, the deputy denied that the GED instructor had spoken to him about the inmate. In a memo prepared shortly after this meeting, the sergeant referred the matter to IAB, explaining, "from my video review, I have determined that [the deputy] missed 3 opportunities to see noose signals on the video screen which was right in front of him the whole time. In addition, he missed 5 opportunities on video to see that [the inmate] was upset and crying. . . . It is also clear that [the GED instructor] told [the deputy] about the suicidal statements which likely means that [the deputy's] response was as reported by [the GED instructor]. . . . Due to the multiple policy violations, the complete disregard for [the inmate's] safety and wellbeing, and the dishonesty, I have no choice but to recommend formal discipline in this matter."

During the subsequent IAB investigation, the deputy denied that the GED instructor had ever verbally told him that the inmate was suicidal. He was shown video footage of his conversation with the GED instructor that showed her making a noose gesture near her neck. The deputy could not credibly explain why she would make that gesture without telling him about the suicidal statements, or the conflict between his first admission to the sergeant and his later denials in the captain's office and to IAB.

The DOS suspended the deputy for 10 days for failing to protect the suicidal inmate from harm. We believe, however, that a preponderance of the evidence also made it more likely than not that the deputy's denials that he had a conversation with the GED instructor about the suicidal inmate constituted knowingly misleading statements to a supervisor and a deceptive act during the IAB investigation. The DOS did not charge specifications for Knowingly Making Misleading or Inaccurate Statements or Commission of a Deceptive Act, and no discipline was imposed for these violations, as we believe it should have been.

■ On February 27, 2018, a deputy was fingerprinting an inmate in the intake area of the DDC when the inmate pulled his arm away from the deputy. Although the inmate did not act in a threatening manner, the deputy grabbed the inmate by his shirt and arm, and pushed him toward a wall. The inmate slipped, was brought back up, and then the deputy and another deputy took him to the ground. In his

report, the deputy wrote that the inmate backed away from him as if to get into a “fighting stance.” The deputy’s description of the inmate’s behavior was contrary to what could be seen in video footage of the incident. The deputy was suspended for six days for using inappropriate force and received a written reprimand for failing to provide an accurate and complete report.²⁰ He initially filed an appeal of the suspension but voluntarily withdrew the appeal shortly thereafter.

■ On March 29, 2018, a deputy was escorting an inmate, who was following the deputy’s instructions, from the inmate’s bunk when the deputy “shoulder-checked” the inmate, causing the inmate to stumble. In her report about the incident, the deputy wrote that the inmate was leaning on the deputy and walking toward her, despite video evidence contradicting the deputy’s account. The deputy, whose discipline was increased due to her disciplinary history, was suspended for a total of 30 days for harassment of prisoners and inaccurate reporting.

■ On August 26, 2018, a deputy was speaking to an inmate through a closed cell door when the inmate hit the cell window. Instead of continuing to speak to the inmate with the cell door closed, the deputy opened the door. The inmate moved towards the deputy, and the deputy told the inmate to step back and pushed him back into the cell. The deputy stepped into the cell, punched the inmate, and the two fell to the floor. Several other deputies responded to the cell and restrained the inmate. The deputy did not include that he punched the inmate in his report about the incident. The deputy, whose discipline was increased due to his disciplinary history, was suspended for a total of 33 days for failing to use sound judgement when he unnecessarily opened the cell door and for inaccurate reporting. The deputy appealed his suspension, which was upheld by a Hearing Officer in August 2019. The deputy appealed that decision to the Career Service Board.

■ On September 28, 2018, a deputy worked in a housing unit as a relief officer. The deputy left the housing unit on two separate occasions to open a door for civilians. While the deputy was out of the pod, an inmate stepped into a restricted area and viewed documents on a desk. The deputy, whose discipline was increased due to his disciplinary history, was suspended for 14 days for abandoning his post and failing to provide full attention to his duties. The deputy appealed his suspension. He subsequently reached a settlement agreement with the DOS whereby his suspension was reduced to 10 days.

Appeals of Significant Discipline Imposed Prior to 2019 and Filed with or Decided by the Career Service Board in the First Half of 2019²¹

■ On July 31, 2011, an inmate who had been badly scalded by other inmates the previous week 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 and appealed. During the appeal, a discovery dispute arose that resulted in an appeal process in state court that took over two-and-a-half years to resolve. In June 2018, a Hearing Officer affirmed the deputy's termination. The deputy appealed this decision to the Career Service Board, which affirmed the Hearing Officer's decision in January 2019. The deputy has appealed the Career Service Board's decision to the Denver District Court.

■ On September 4, 2014, a captain, a major, and several other deputies responded to the cell of a severely mentally ill inmate who needed to be moved to a cell with a video camera. The inmate was disoriented and incoherent and was repeatedly saying the word “cigarette.” The major obtained a cigarette (a contraband item inmates are prohibited from possessing) and gave it to the captain to coax the inmate from the cell without having to use force. After the inmate had already accompanied deputies to a camera cell without any use of force the captain gave the inmate the cigarette. Two deputies wrote reports about the incident omitting that a captain had given the inmate a cigarette. The major and the two deputies were suspended for two days. The captain was demoted to the rank of sergeant. He appealed that decision, and a Hearing Officer reversed the demotion in December 2015. The DOS appealed that decision, and the Career Service Board reinstated

the demotion in July 2016. The captain appealed the Career Service Board's decision to the Denver District Court, which affirmed the decision on the merits of the violations but remanded the case for findings about the issue of whether the penalty was appropriate. On remand, the Hearing Officers affirmed the demotion, and an appeal of that decision is pending before the Career Service Board.

■ On the evening of November 11, 2015, an inmate was in the custody of the DSD when he began displaying erratic behavior. Deputies isolated him in a jail sally port, and when he attempted to enter an adjacent hallway, they moved him to the floor and put him into restraints. For approximately 13 minutes, deputies used physical force on the inmate, primarily involving the application of pressure and bodyweight on him, while he intermittently struggled on the floor. The inmate ultimately became unconscious. Two deputies (“Deputy A” and “Deputy B”) performed cardiopulmonary resuscitation for approximately 16 and 3 minutes, respectively, and paramedics transported the inmate to Denver Health Medical Center, where he was in a comatose state. Nine days later, on November 20, 2015, the inmate was taken off life support, and died. The OIM issued a report, the [Death of Michael Marshall, an Independent Review](#), which provided an extensive review and analysis of the incident and can be found [here](#).²²

The DOS disciplined Deputy A, Deputy B, and a captain for their conduct during the incident. Deputy A was suspended for 16 days for using inappropriate force after medical personnel had asked him to release pressure from the inmate. He 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 Orcutt Police Nunchakus as a pain compliance technique after the inmate was restrained. Deputy B was also required to attend remedial training on the DSD's Use of Force Policy. 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.

Deputies A and B appealed, and a Career Service Hearing Officer overturned their discipline in November 2017. The DOS appealed the Hearing Officer's decision to the Career Service Board, and in June 2018, the Career Service Board reversed the decision and remanded the case back to the Hearing Officer for a determination about the appropriateness of the penalties imposed.²³ Deputies A and B appealed the Career Service Board's decision to Denver District Court, which dismissed their appeal as premature in June 2019, and the Hearing Officer affirmed the deputies' original suspensions in August 2019. Both deputies have appealed that decision to the Career Service Board.

Chapter 2 :: DSD Monitoring

The captain appealed, and a Career Service Hearing Officer overturned his discipline in November 2017. The DOS appealed the Hearing Officer's decision to the Career Service Board, and in April 2018, the Career Service Board reversed the decision and remanded the case back to the Hearing Officer for a determination about the appropriateness of the penalty imposed.²⁴ In February 2019, the Hearing Officer affirmed the captain's original suspension. The captain appealed the Career Service Board's decision to remand the case back to the Hearing Officer to the Denver District Court, which affirmed the decision in September 2019.

■ 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 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 received a written reprimand for failing to comply with DSD policies and rules, and was suspended for four days for failing to supervise and perform his assigned duties. Deputies A and B appealed, and in June 2018, a Hearing Officer affirmed Deputy A's 10-day suspension and modified Deputy B's 4-day suspension to a 1-day suspension and a written reprimand. Both decisions were appealed to the Career Service Board, which affirmed the Hearing Officer's decisions in November 2018.²⁵ Deputy A has appealed to the Denver District Court.

■ 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. He was also required to take a Critical Incident Training course. The deputy appealed, and in July 2018, a Hearing Officer affirmed his suspension. The deputy appealed the decision to the Career Service Board, which affirmed the Hearing Officer’s decision in November 2018.²⁶

Commendations and Awards

The DSD gives commendations and awards to deputies who engage 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 2019.²⁷ The most common commendations recorded in the first half of 2019 were Personal Responsibility in Delivering Excellence (“PRIDE”) Awards.

Table 2.2 Commendations Awarded to DSD Deputies, First Half of 2019

Commendation Type	Count	Percentage
PRIDE Award	33	66%
Employee of the Month	14	28%
Employee of the Quarter	3	6%
Total	50	100%

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

Highlighted Commendations

- A deputy received a PRIDE Award for using his Crisis Intervention Training skills to de-escalate an inmate experiencing suicidal ideation. His actions prevented a use of force.
- A deputy received a PRIDE Award for establishing a calming presence for an inmate experiencing a medical emergency. The deputy stayed by the inmate’s side and reassured him that he was safe, which enabled the medical staff to safely complete a medical assessment.

Chapter 2 :: DSD Monitoring

- Two deputies received PRIDE Awards for displaying professionalism and compassion when a person fell ill during a security screening. Their actions resulted in the person and others present remaining calm during a stressful medical emergency.
- A deputy received an Employee of the Month Award for promoting harmony among his co-workers, helping others, and completing his work with a high level of accuracy.
- A deputy received an Employee of the Quarter Award for being knowledgeable, helpful, and an excellent trainer. The deputy's actions demonstrated patience and a willingness to lead.

3

Critical Incidents

Introduction and Overview

Officer-involved shootings (“OISs”) and deaths during DPD or DSD contact (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.²⁸ 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.

In all critical incidents, the DPD 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.²⁹ 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 not a voting member of the Use of Force Review Board but is present for all its 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 appear to be in violation of any DPD policy ("out of policy"), the findings are forwarded to DPD IAB for further investigation, if necessary. Once the investigation is complete, the case is forwarded to the DPD Conduct Review Office ("CRO") for a disciplinary recommendation. If the DPD CRO recommends discipline greater than a written reprimand, the involved officer is given the option to present mitigating information at a Chief's Hearing. Both the Chief's disciplinary recommendation and that of the OIM are then 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 in the First Half of 2019

Incident #1

On January 27, 2019, DPD officers were involved in an OIS. The incident is currently under administrative review.³⁰

Incident #2

On February 12, 2019, officers were dispatched to a house where a caller reported that her husband had “pistol whipped” and threatened to kill her. As the officers approached the house, two officers took positions near the front door, three officers (“Officer A,” “Officer B,” and “Officer C”) positioned themselves near a side door next to the driveway, and another officer (“Officer D”) positioned himself behind a vehicle parked in the driveway. Officer A knocked on the side door, and officers ordered the occupants of the house to “come out of the house” and “show your hands.” Shortly after, a woman opened the side door, and a man standing behind her looked at Officer D and ran back into the house. Officer D approached the side door and saw the man point a gun at the woman. Officer D fired two rounds at the man. Thinking that Officer D was being shot at, Officer B stepped into the side door and fired his weapon six times at the man. The man was wounded in the abdomen and both legs, but 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](#).³¹ The incident is currently under administrative review.

Incident #3

On February 25, 2019, officers arrived at an apartment where a caller reported a disturbance and heard a person yelling death threats and what sounded like a round being chambered in a shotgun. The officers evacuated the neighboring apartments. A sergeant and corporal stood in a foyer with a view of the apartment door, an officer (“Officer A”) positioned himself behind a ballistic shield down the hallway from the apartment, and another officer (“Officer B”) stood next to him in the doorway of an adjacent apartment. The sergeant talked with the person on the telephone and asked him to come out. The person threatened to come out with a gun and shoot the officers. The person opened the door and walked into the hallway, holding a handgun. He turned and walked down the hallway toward Officers A and B. Officer A ordered the person to stop walking and drop the gun. The person continued walking toward the officers, and the sergeant yelled, “We

Chapter 3 :: Critical Incidents

can't let him get close. We have to shoot.” Officer A fired seven rounds, Officer B fired two rounds, and the corporal fired one round. The person was shot nine times and died from his wounds.

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](#).³² The incident is currently under administrative review.

Incident #4

On April 10, 2019, two officers (“Officer A” and “Officer B”) identified and followed a car that had been stolen at gunpoint in another jurisdiction. The car accelerated away, and Officers A and B pursued in their patrol vehicle until the car left the road and stopped. Two individuals got out of the car and ran away. Before Officers A and B exited their patrol vehicle, one of the individuals turned toward the vehicle and fired two shots at Officers A and B from a handgun. Officer A exited the patrol vehicle and chased the individual. During the chase, Officer A fired five shots, striking the individual once in the shoulder. Officer A lost sight of the individual, and officers from the DPD and another jurisdiction set up a perimeter. They heard a single gunshot and later found the individual in a window well in the vicinity, suffering from a self-inflicted gunshot wound. The individual later died from the self-inflicted gunshot wound.

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](#).³³ The incident is currently under administrative review.

DPD Accidental Discharges in the First Half of 2019

Incident #1

On May 2, 2019, a detective accidentally discharged his firearm. The incident is currently under administrative review.

Incident #2

On June 13, 2019, an officer accidentally discharged his firearm. The incident is currently under administrative review.

Deaths During DPD Contact in the First Half of 2019

Incident #1

On January 4, 2019, an individual died of an apparent self-inflicted gunshot wound during an interaction with DPD officers. The incident is currently under administrative review.

Incident #2

On January 5, 2019, an individual died of an apparent self-inflicted gunshot wound during an interaction with DPD officers. The incident is currently under administrative review.

Incident #3

On January 23, 2019, an individual died of an apparent self-inflicted gunshot wound after being contacted by DPD officers. The incident is currently under administrative review.

Incident #4

On February 14, 2019, an individual died of an apparent self-inflicted gunshot wound after being contacted by DPD officers. The incident is currently under administrative review.

Incident #5

On June 1, 2019, an individual died after being contacted by DPD officers. The incident is currently under administrative review.

DPD Critical Incidents Closed in the First Half of 2019³⁴

Closed Incident #1

On January 26, 2018, officers were dispatched to a Regional Transportation 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](#).³⁵ The DPD's Use of Force Review Board met on June 12, 2019, and the OIM provided advice and recommendations. The Use of Force Review Board determined the shooting to be in-policy. The OIM concurred.

Closed Incident #2

On February 6, 2018, a woman called 911 to report that her son had a knife, appeared "high on something," and was threatening to kill himself. A short time later, the man stole a car at knife point, crashed the car, and broke into a house. Officers received a report of a burglary in progress and responded to the house. When the officers first entered the house, the man was hiding in a bedroom. 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 man. During this time, the man made statements regarding his intent to kill the officers. Toward the end of the encounter, the man darted out of the bedroom and briefly stood in the hallway, holding a large knife. The officers ordered the man to drop the knife. The man did not comply and ran into an adjacent bathroom. Approximately three minutes later, the man came out of the bathroom holding the large knife and lunged at the officers who were in a living room at the end of the hallway. A corporal discharged two rounds from a shotgun when the man was six to eight feet away. The man 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 reviewing the shooting, which can be found [here](#).³⁶ The DPD's Use of Force Review Board met on June 12, 2019, and the OIM provided advice and recommendations. The Use of Force Review Board determined the shooting to be in-policy. The OIM concurred.

Closed 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](#).³⁷ The DPD's Use of Force Review Board met on June 12, 2019, and the OIM provided advice and recommendations. The Use of Force Review Board determined the shooting to be in-policy. The OIM concurred.

Closed Incident #4

On March 13, 2018, a DPD detective and a Drug Enforcement Agency special agent posed as sellers in an undercover operation. The special agent escorted 2 suspects ("Suspect A" and "Suspect B"), who had traveled from another state to purchase 130 pounds of marijuana, to a location where the detective and marijuana were located. Suspects A and B loaded the marijuana into their vehicle. The special agent left the location to meet another individual who allegedly had the money. After the special agent left, Suspect B spoke to the detective outside the box truck, distracting him while Suspect A pulled a handgun from his waistband and pointed it at the detective. The detective started to run away from the location, and Suspect B ran around the front of the vehicle and got into the driver's seat. Suspect A, still

Chapter 3 :: Critical Incidents

holding the handgun, ran around the back of the vehicle to the driver's side. The detective fired seven rounds. Suspect A fired three rounds and ran away, and Suspect B drove off and crashed the vehicle. Suspects A and B were arrested, and no one was injured.

The District Attorney for the 18th Judicial District (where the incident occurred) reviewed the incident and declined to file charges against the involved detective.³⁸ The DPD's Use of Force Review Board met on February 27, 2019, and the OIM provided advice and recommendations. The Use of Force Review Board determined the shooting to be in-policy. The OIM had tactical concerns about the incident but did not consider the Use of Force Review Board's finding unreasonable. The shooting was referred to the Tactics Review Board.

Closed Incident #5

On June 13, 2018, a convenience store clerk flagged down two officers in their patrol car. As the officers got out of their car, the clerk told them that he had just been robbed and that the fleeing suspect was armed. The officers saw the suspect running 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 fired 13 rounds at the suspect. The suspect was struck once and died as a result of the gunshot wound.

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](#).³⁹ The DPD's Use of Force Review Board met on February 27, 2019, and the OIM provided advice and recommendations. The Use of Force Review Board determined the shooting to be in-policy. The OIM concurred.

DPD Accidental Discharges Closed in the First Half of 2019

Closed Incident #1

On December 15, 2017, two officers responded to several calls about an apparently intoxicated person. As one of the officers attempted to turn on his weapon-mounted light, he discharged one round from his handgun. No one was injured in the shooting, but the round struck inches from the person's head. The Use of Force Review Board met on November 28, 2018 to review the incident and determined the accidental shooting to be out-of-policy.⁴⁰ The officer was suspended for 10 days for carelessly handling his firearm.

Critical Incidents: Denver Sheriff Department

Critical Incident 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 Unit 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 Crimes Unit reports are submitted to DSD IAB to commence the administrative review.⁴¹ 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 DSD 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 DSD CRO's findings and makes recommendations to the Sheriff and the DOS.

If the CRO finds that the involved deputy's actions violated any DSD 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 information, 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 in the First Half of 2019

The DSD had no critical incidents occur or close in the first half of 2019.

Chapter 3 :: Critical Incidents

Endnotes

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

² 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 20, 2019.

³ Because of changes in coding or analysis of complaints, specifications, findings, and discipline, there may be discrepancies between historical data presented in this report and data presented in previous OIM reports.

⁴ Scheduled discipline violations include Failure to Appear in Court, Failure to Shoot for Efficiency, Photo Radar, Safety Restraining Devices, Required Minimum Annual Continuing Education, Continuing Education Programs Cancellation/Continuing Education Programs Failure to Attend, Preventable Accidents, and Punctuality. *See* DPD Discipline Handbook: Conduct Principles and Disciplinary Guidelines, Appendix F, at 8-9 (effective May 2, 2019).

⁵ *See* DPD OMS 119.04(12) (revised June 11, 2019) (The policy provides scheduled discipline for the first 3 violations, in a 12-month period, of the BWC recording requirements. The first BWC violation requires an oral reprimand, a journal entry, a review of the BWC Policy, and a follow-up meeting with a supervisor; the second BWC violation a written reprimand, audit, and Personnel Assessment System review; and the third BWC violation one fined day.)

⁶ Many reports related to police oversight and internal affairs 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 IAPro. 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. Additional information about DPD specifications can be found at <https://www.denvergov.org/content/dam/denvergov/Portals/720/documents/discipline-handbook/handbook-final.pdf>. The data included in this table were retrieved from IAPro on November 5, 2019.

⁷ DPD Discipline Handbook: Conduct Principles and Disciplinary Guidelines, Rules and Regulations, at 12 (effective May 2, 2019).

⁸ DPD Discipline Handbook: Conduct Principles and Disciplinary Guidelines, Rules and Regulations, at 16 (effective May 2, 2019).

Endnotes

⁹ Complaints with significant discipline closed in the first half of 2019 may not be included in this section if they were summarized in the OIM's [2018 Annual Report](#).

¹⁰ Summary data about appeals filed by DPD officers or by the DOS regarding DPD officers were provided to the OIM by the Civil Service Commission on July 29, 2019.

¹¹ Denver Revised Municipal Code Art. XVIII §§ 2-371(b), 2-375(a).

¹² 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 deputies, 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 do not include complaints against DSD civilian employees or complaints that were not linked to a subject deputy in IAPro. The data included in this chapter were last retrieved from IAPro on August 20, 2019.

¹³ Because of changes in coding or analysis of complaints, specifications, findings, and discipline, there may be slight discrepancies between historical data presented in this report and data presented in previous OIM reports.

¹⁴ 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); DSD Directive, Discipline Handbook Appendix H Scheduled Discipline for Failure to Participate in Required Firearms Qualification/Training (Aug. 8, 2019). In its previous semiannual reports, the OIM included Unauthorized Leave complaints in the tables, figures, and discussions of recorded and closed complaints.

¹⁵ Sworn DSD staff, including supervisors, are collectively referred to as "deputies" throughout this report, unless otherwise noted.

¹⁶ Denver Mayor's Office, *Mayor Hancock Launches Public Integrity Division* (Dec. 13, 2018), <https://www.denvergov.org/content/denvergov/en/mayors-office/newsroom/2018/mayor-hancock-launches-public-integrity-division.html>.

¹⁷ Many reports related to law enforcement oversight and internal affairs 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 a deputy. The DSD does not systematically track the detailed allegations made by complainants in IAPro. 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 a deputy might be punished, rather than the precise allegations communicated in the complaint. Additional information about DSD specifications can be found at <https://www.powerdms.com/public/DENVERSAFETY/documents/948994>.

¹⁸ DSD Discipline Handbook: Conduct Principles and Disciplinary Guidelines, Appendix F, at 10 (updated Oct. 15, 2017).

¹⁹ 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. Complaints with significant discipline closed in first half of 2019 may not be included in this section if they were summarized in the OIM’s [2018 Annual Report](#).

²⁰ The deputy received a six-day suspension for using inappropriate force in this case because “there was no injury sustained by the inmate, there was no intent to injure by [the deputy], [the deputy’s] willingness to accept responsibility for his actions both at his IAB interview and during his contemplation of discipline meeting, and [the deputy’s] lack of disciplinary history.” The DSD Discipline Handbook identifies the penalties associated with the use of inappropriate force as ranging from an 18-day suspension to termination. The DSD Discipline Handbook also allows for “extraordinary mitigation” in cases where mitigating factors are “so extraordinary that the mitigated penalty established in the matrix would be unfair or would not reflect the totality of the circumstances.” DSD Discipline Handbook: Conduct Principles and Disciplinary Guidelines, at 25-26 (updated Oct. 15, 2017).

²¹ 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 30, 2019.

²² The Office of the Independent Monitor, *The Death of Michael Marshall, an Independent Review* (2018), <https://www.denvergov.org/content/dam/denvergov/Portals/374/documents/OIM%20Marshall%20Report.pdf>

²³ The Career Service Board’s decision was ordered in June 2018 and documented in January 2019.

²⁴ The Career Service Board’s decision was ordered in April 2018 and documented in January 2019.

²⁵ The Career Service Board’s decision was ordered in November 2018 and documented in April 2019.

²⁶ The Career Service Board’s decision was ordered in November 2018 and documented in May 2019.

²⁷ Data about DSD commendations were provided by the DSD and may include commendations awarded to non-sworn personnel.

²⁸ When community members die of natural causes in the custody of or during contact with the DPD or DSD, the OIM has not historically reported on those deaths.

²⁹ Denver District Attorney Beth McCann, Officer-Involved Shooting Protocol 2017, at 1.

³⁰ When an officer shoots and wounds or kills a person in Denver, the Denver District Attorney’s Office investigates the incident and releases a decision letter on its website. *See* Denver District Attorney Beth McCann, Officer-Involved Shooting Protocol 2017, at 1-2. The District Attorney likely did not issue a public letter about the investigation of this shooting because the involved officers did not wound or kill the suspect.

³¹ Decision Letter from Denver District Attorney Beth McCann to Denver Police Chief Paul Pazen (June 21, 2019), <https://www.denverda.org/wp-content/uploads/2019/06/Decision-Letter-for-Officer-Involved-Shooting-of-Juan-Sanchez-Jimenez-Feb-12-2019-00000002-1.pdf>.

³² Decision Letter from Denver District Attorney Beth McCann to Denver Police Chief Paul Pazen (July 2, 2019), <https://www.denverda.org/wp-content/uploads/2019/07/070319-Decision-Letter-for-Officer-Involved-Shooting-Death-of-David-Litton-Feb-25-2019.pdf>

Endnotes

³³ Decision Letter from Denver District Attorney Beth McCann to Denver Police Chief Paul Pazen (August 12, 2019), <https://www.denverda.org/wp-content/uploads/decision-letter/2019/Decision-Letter-for-Officer-Involved-Shooting-of-Anthony-Solano-Vasquez-April-10-2019.pdf>

³⁴ Critical incidents closed in the first half of 2019 may not be included in this section if they were summarized in the OIM's 2018 Annual Report. Several critical incidents summarized in this section were not officially closed in the DPD's internal tracking database until July 2019, but they are included because the Use of Force Review Board meetings were held in June 2019.

³⁵ 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>.

³⁶ 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>.

³⁷ 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>.

³⁸ The 18th Judicial District Attorney did not release a decision letter.

³⁹ 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>.

⁴⁰ While the Use of Force Review Board determined the shooting to be out-of-policy on November 28, 2018, the incident is included in this report because the discipline order for the officer's suspension was not issued until January 2019.

⁴¹ In December 2018, Mayor Michael B. Hancock and Executive Director of the DOS Troy Riggs announced the creation of the Public Integrity Division, and its Administrative Investigations Unit and Conduct Review Unit are expected to take over the administrative review of critical incidents.



Office of the Independent Monitor
101 W. Colfax Ave., Suite 100
Denver, CO 80202
720 913 3306
www.denvergov.org/OIM | oim@denvergov.org
facebook.com/DenverOIM