

*Report on the*  
Use of Force & Internal Affairs Operations  
in the Denver Sheriff Department

May 2015





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# Summary & Findings

In the past two years, concerns about how the Denver Sheriff Department (DSD) manages its jails have rocked the community of Denver. Media accounts and reports from independent sources such as the Office of the Independent Monitor (OIM) have focused more attention on the Department than it has likely seen in its 110-year history. Many of the reports raised concern about the use of force by DSD deputies, the lack of investigative response and accountability with regard to that force, the inability of the internal investigative system to investigate allegations of misconduct effectively, the civil litigation payouts from alleged civil rights violations, and cautions raised by outside stakeholders, including a federal judge, about potential patterns of force. During this time, DSD – an institution that previously had conducted its business largely out of the public view – became a fixture in the daily headlines. The tumult resulted in numerous changes in DSD leadership; meanwhile the Department soldiered on in the face of continuing public criticism.

To their credit, the Mayor, City Council, the Department of Public Safety, DSD leadership, and other stakeholders quickly responded to

and began to address this crescendo of strife. Four working groups were formed to look into various aspects of DSD operations, including policy, discipline, employee wellness, and training. The working groups were comprised of DSD members interested in improving processes and, more remarkably, outside entities who gained a seat at the reform tables to offer their perspectives. The Mayor created an Executive Steering Committee to help coordinate reform initiatives, and organized town hall meetings to listen to the community's concerns. Leadership also solicited views from inside the organization as part of the reform piece, and advocacy groups presented recommendations intended to improve the way in which the jails function.

As part of this full-scale assessment of DSD operations, the Mayor's Office and the Department of Public Safety issued a request for proposal for a wide-ranging independent review of Sheriff Department operations. The City engaged Hillard Heintze to perform this comprehensive review and requested that OIR Group be tasked to perform an analysis of use of force and Internal Affairs operations. This report is the culmination of OIR Group's assignment.

The fact that Denver's leadership commissioned this independent review, allowed us to go wherever our review took us, and committed to making public the report of our findings and recommendations is evidence of leadership committed to real reform.

In our review, we found significant shortcomings in the way the Sheriff Department investigates and reviews most force incidents. While force that is investigated by the Internal Affairs Bureau (IA or IAB) meets minimal industry standards, aided by the oversight of the Independent Monitor, the "investigation" of all other force incidents amounts to merely collecting written accounts of the incident provided by the involved and witness deputies. Basic steps such as obtaining an account from the inmate upon whom force was used, interviewing any witness inmates, and reviewing video evidence of the force incidents are neither required nor expected of the first-level supervisor entrusted to review the incident. As a result, in Denver's jails, most force

“investigations” primarily consist of the sergeant reading deputy accounts and then signing off on the force as justified.

For most force incidents, there is also no meaningful holistic assessment through the prisms of training, briefing, supervision, and equipment. Beyond the “bottom line” issue of legal justification for force, each incident offers a potential opportunity for an agency to reinforce effective practices and identify shortcomings. At DSD, this type of comprehensive evaluation was almost never done. Instead, use of force reports were simply collected, checked off as in-policy, and filed away. To date, this wholly inadequate force investigation and review protocol is standard business in the Denver jails.

In addition to the Department’s need to improve the way it investigates and learns from force incidents, our review determined it is imperative that the Department reorient the culture of force in the jails. It is encouraging that Department leadership has accepted the notion that better strategies and tactics for interacting with inmates can enable deputies to enforce jail rules and maintain order without having to resort to force. This concept, though, has not been sufficiently inculcated in deputies. This report suggests how development of “force prevention” policies and training can contribute to this smarter way of jailing so that potential force – and the resulting injuries to deputies and inmates alike – can be avoided.

Additionally, we note that the Department’s ability to determine, assess, learn about and analyze force incidents collectively is severely hampered by the wholly unreliable electronic data currently existing on DSD’s databases. Because anyone familiar with the system has an appropriate distrust of its reliability, staff responds to requests for information with painstaking hand searches of reports. This practice obviously interferes with the regular and timely collection of data that might be used for trend identification and other useful insights. In this age of near universal technology, the deficiency seems as striking as it is avoidable.

With regard to the Internal Affairs function, the unit suffered from inattention and insufficient resource dedication, and accordingly experienced the expected results – delinquent investigations with

inadequate quality control and supervision. However, in contrast to some of the more persistent issues, DSD has moved quickly to address these deficiencies by, among other things, hiring an Interim Director and giving him the authority to acquire additional resources. While the case delinquency rate is down and the quality of cases is up, more needs to be done to improve Internal Affairs' ability to resolve matters efficiently and thoroughly, and we set out a number of recommendations intended to assist in that effort.

We also have suggested improvements to current force policy and related matters and have endorsed a number of recommendations put forward by the various working groups and others that we were fortunate to meet.

We are encouraged to note that DSD is not an agency that suffers from a lack of interest in reform. On the contrary, we found in DSD – from its command staff to its deputies and professional staff – a high level of concern about the organization and a genuine interest in responding constructively to public criticism and identified shortcomings. Indeed, we encountered people at every level of the Department who were eager to see progress, and received cooperative, thoughtful, and professional responses to our many requests. DSD command staff took time out of their busy schedules to provide helpful and candid information and perspectives about how the jails functioned and where they did not function so well. Often when we evaluate law enforcement agencies, our presence is met with skepticism and worry. In Denver, however, we did not see this same fear, but rather hope for meaningful change.

Any insight we provide in this report could not have been achieved without the level of cooperation, insight, and perspective provided by DSD employees, other stakeholders that regularly interface with the institution, and interested community representatives. In fact, our review had a leg up as a result of the work, thought, and reflection that the Denver community and its representatives had already dedicated to the reform effort.

The fact that Denver's leadership commissioned this independent review, allowed us to go wherever our review took us, and committed

to making public the report of our findings and recommendations is evidence of leadership committed to real reform. If the Department accepts our recommendations, the Office of the Independent Monitor is already well-positioned to monitor implementation efforts and report to the community about the status of reform measures; it is imperative that OIM be given the support and authority to perform this function. Perhaps most significantly, Denver's unconditional commitment to transparency by releasing these independent assessments is a testament to the courage of Denver leadership, and its willingness to confront challenges directly. The controversy of the past year has been painful for the Department, but out of controversy comes the opportunity for reform. It gives us confidence that there is a will and intent to continue to push the reform measures offered here and to make Denver's jails a high functioning environment that the community and its employees can be proud of. We feel privileged that we were able to contribute to this assessment and reform effort. We welcome further dialogue about these matters.

## Scope of Review

Denver engaged OIR Group to perform an independent, comprehensive review of the procedures and practices of the Denver Sheriff Department with regard to the use of force and the operations of the Internal Affairs Bureau. Our task was not just to complete a paper review of policies, procedures, and investigations, but to learn about the Department – its strengths and weaknesses, its culture, and its history – to inform our understanding of the depth of its problems and its best path to reform.

To that end, members of OIR Group visited Denver three times for a total of 11 very busy days, conducting interviews of personnel at every rank and various assignments, from deputies to the Sheriff himself; touring the jail facilities; meeting with Department and City executives, the Independent Monitor, interested community members, and outside stakeholders; and observing force training. We also spoke at a public meeting of the Citizen's Oversight Board meeting in December, engaging with numerous Denver community members

deeply concerned about the operation of the jails, and met twice with the Denver Sheriff Department Executive Steering Committee.

Apart from our visits to Denver, we did a detailed review of all the Department's use of force policies, its Internal Affairs Procedures manual, and various other policies impacting on areas within the scope of our review. We also obtained and reviewed numerous use of force incident reports and all of the material that comprised a number of complete Internal Affairs investigations, including documentation of the disciplinary process.

Our analysis centers on the Department's current policy, procedure, and practices, though we make reference to historical changes where relevant. At times it felt as though the Department was a moving target, particularly in Internal Affairs, where the bureau was forging ahead with meaningful reform on its own initiative. Throughout the report, we make numerous recommendations for ways to improve the Department's operations regarding the use of force and Internal Affairs operations.

This report has three sections. In the first, we examine use of force policies as well as the way the Department investigates and reviews force. The second section discusses Internal Affairs, crediting much of the good work that has been accomplished in the past several months but nonetheless offering suggestions for further improvement. The third section is a list of all recommendations otherwise dispersed throughout the report.

# Findings

- 1 DSD needs to change its culture regarding the use of force by emphasizing in its policy, training, and overall Department orientation the principle that not all legally justifiable force is necessary or appropriate, and that force should be avoided when de-escalation tactics make that possible.
- 2 DSD needs to dramatically alter the way it investigates and reviews force incidents that are not referred to Internal Affairs.
- 3 DSD's policies governing the use of force need to be amended to more precisely define important terms, to give greater guidance to deputies regarding the Department's expectations, and to better demonstrate the Department's philosophy and values.
- 4 DSD needs to work toward providing more ongoing, regular training on force tactics and other skills most relevant to deputies in a jail setting, to involve more deputies in CIT training, and to ensure that deputies' demonstrated skills are factored into their job assignments.
- 5 DSD needs to find better ways to collect reliable data and to use that data to analyze and audit uses of force and other issues.
- 6 DSD could make better use of its valuable video evidence in the investigation and review of force incidents as well as in training scenarios.

- 7 The Internal Affairs Bureau has made substantial progress toward improving the quality and timeliness of its investigations, and the changes of the past year should be maintained.
- 8 DSD needs to establish guidelines and a process for the selection and training of new Internal Affairs investigators.
- 9 The current structure and staffing of the Internal Affairs Bureau does not provide for optimal supervision and leadership.
- 10 The criteria for which allegations and types of force incidents should be investigated by Internal Affairs is not clearly defined, and the Department's expectations regarding those incidents handled at the division level are similarly unclear.
- 11 Internal Affairs uses considerable resources to investigate matters that could effectively be handled in other ways.
- 12 The ways in which Internal Affairs investigators gather and use video evidence are inefficient and inconsistent.
- 13 The Procedures Manual for Internal Affairs is out of date and does not clearly define all of the Bureau's expectations for its investigators.
- 14 DSD could become more transparent by providing employees, stakeholders, and the public at large with more information about its force incidents and internal investigations.
- 15 The Office of Independent Monitor is a valuable resource that DSD should consult when considering or implementing the recommendations proposed in the consultants' report, as well as other systemic reforms, policy initiatives, or new training curricula impacting on accountability, force, and deputy performance.

# Use of Force

Our review of DSD’s use of force policies and practices included an assessment of the way in which the Department investigates and evaluates deputies’ uses of force, a look at the Department’s force training as well as the way it gathers and utilizes data on uses of force, and an appraisal of its force policies. We found room for improvement in all of these areas, but particularly significant shortcomings in the way the Department investigates and reviews most force incidents.

Any discussion about force issues should begin by addressing the need to eliminate those incidents in which deputies might have been authorized or legally justified in using force, but in which it was not necessary to use that force to complete their responsibilities. Certainly, deputies must have authority to use force to protect themselves or others from harm. However, the goal of any progressive law enforcement agency should be to eliminate uses of discretionary force to handle situations that could have been resolved peacefully if other tactics and skills had been employed. To reach the goal of eliminating force that may be defensible but avoidable requires a reorientation and culture change. Most uses of force that fall within

this category involve interactions prior to the force that could and should have been handled differently by the deputy. Some of these de-escalation tactics are as simple as the officers' ability to maintain a respectful, non-challenging and non-threatening demeanor.

To aid in pushing this culture change and to reinforce the idea that the Department's interest is to reduce incidents of force to a minimum, we recommend that DSD structure its use of force policy to emphasize the importance of these principles. For example, the policy could include language such as the following:

*When time, circumstances, and safety permit, there may be alternatives to using force. When reasonable and safe under the totality of the circumstances, members should consider such alternatives as advisements, warning, verbal persuasion, and other tactics.*

In addition to developing a "force prevention" policy, the Department's force training should also be modified to address this reorientation both for new deputies and during in-service training. Instead of solely brushing up on force techniques, training should include discussion about rethinking the role of force in the jail and how different strategies, problem solving, and techniques can be deployed to resolve situations without force. Training for supervisors needs to emphasize their role in preventing avoidable uses of force – from the obvious ways in which they direct and guide deputies to use force in particular instances to the more subtle influence they can have in setting the right tone and enforcing the Department's standards and expectations.

RECOMMENDATION 1: DSD should inculcate principles of force prevention in its culture, policy, training, and overall Department orientation.

Another way to push culture change within the Department is to positively reinforce conflict resolution skills and affirm officers who have the capability and temperament to handle difficult situations without resorting to force. While it is necessary to have systems in place to identify and remediate personnel who may be using a disproportionate amount of force, it is equally important to recognize those individuals who find ways to perform their duties and defuse situations peacefully. DSD should recognize those deputies in their regular performance evaluations and through “commendable restraint” citations. The Department should also acknowledge those deputies as peer role models and draft them for training and briefing assignments, to reinforce the value the Department places on their acumen, skill, and approach to their work.

RECOMMENDATION 2: DSD should demonstrate how much it values deputies’ abilities to resolve confrontations without resorting to force by issuing commendable restraint citations, considering the amount of force an officer uses in assessing the officer’s annual performance, recognizing those deputies as peer role models, and by highlighting those deputies’ skill in briefing and training scenarios.

## **Investigating and Reviewing Uses of Force**

A deputy’s authority to use force comes with a significant responsibility to use it judiciously and only when reasonably necessary. It is essential that a law enforcement agency critically review and evaluate each force incident in order to determine whether the use of force complies with Departmental expectations as set out by policy and reinforced in training. An effective inquiry, however, does not end there. In addition, the Department should assess force incidents for potential issues with performance, training, tactics, equipment, policy, or supervision. This requires a commitment to

comprehensive fact-gathering and dispassionate review. But the effort is worthwhile. The holistic review of force incidents will increase the tactical and decision-making capabilities of deputies, promote accountability, and leave the Department with better options to address tomorrow's challenges – a goal of any progressive law enforcement organization.

Unfortunately, as detailed below, current DSD policy, culture, and training fails to facilitate the achievement of this goal. As a result, force incidents that are not sent to Internal Affairs are not fully investigated or critically reviewed.

When a deputy uses force, policy requires the involved deputy and all deputy witnesses to write a narrative report of the incident in the Department's Jail Management System prior to the end of the involved deputies' shift. The policy further requires that the sergeant and/or captain of the facility review the report and indicate whether the force used complied with Colorado law and Department policy. Finally, the policy requires that if the force used was "inappropriate," the Captain will contact Internal Affairs, address any equipment concerns, recommend policy modifications, or order remedial training.

In some cases, often based on a review of the video of the force event, jail supervision will refer the incident to Internal Affairs for an investigation.<sup>1</sup> IA is also charged with investigating all force incidents that are the subject of inmate complaints regarding excessive force.<sup>2</sup> Still, for the large majority of force incidents, the force investigation and review is the responsibility of jail supervisors.

In the terse policy regarding force review, the Department provides almost no guidance to supervisors regarding the type of fact collection

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<sup>1</sup> Please see Section Two of this report, on Internal Affairs, with regard to issues surrounding the handling of force cases that receive a formal administrative investigation.

<sup>2</sup> As the Independent Monitor reported in his 2013 Semiannual Report, however, inmate grievances alleging inappropriate force (and other serious misconduct) have not always been referred to IA as required. This was a serious failing that deserved the negative attention it received. Following the OIM Report, the Department made a renewed commitment to initiating IA investigations on inmate complaints of inappropriate force.

necessary to fully investigate a force incident. As noted above, involved deputies and witness deputies are required to document their actions and observations. However, the policy does not require additional evidence collection that one would expect to see in a thorough force investigation. For example, the policy does not require that the sergeant responsible for reviewing the force event interview the inmate upon whom force was used. Nor does the policy require that inmate witnesses to the event be interviewed. In cases where non-deputy jail staff such as nurses, doctors, maintenance workers, or chaplains are witnesses to the force incident, there is no requirement that they prepare a report of their observations or be interviewed about the incident. While our review found times in which photographs were taken of inmate injuries, the policy does not require it. The policy likewise does not require that medical records of inmate or deputy injuries be obtained and appended to the report. There is no requirement of collection or analysis of forensic evidence relating to the force incident such as the weapons used. And most strikingly, even if a force event is caught on the jail cameras, sergeants are not only not required to view the video of the event, they are prohibited from doing so.

DSD's use of force policy requires that the use of force reports prepared by involved or witness deputies contain a "detailed chronological description of the incident to include who, what, where, when, how, why (if possible), any injuries and medical treatment provided."<sup>3</sup> The policy requires that the report must also be "accurate and limited to factual events free from opinion or prejudice and detail all of the necessary information to provide a complete depiction of the incident, to include actions both taken and observed."<sup>4</sup> Our review of a significant sample of use of force reports found that, contrary to these requirements, the information contained in the deputy reports are a minimal recitation of some of the observations and actions taken or observed by deputies. Information

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<sup>3</sup> Department Order 1115.1A, Reporting System, 5(C)(1).

<sup>4</sup> Department Order 1115.1A, Reporting System, 5(C)(2).

about the events preceding the force was not included with any significant detail. The deputy reports generally did not provide a detailed description of specific inmate actions or deputy observations that formed the basis for the use of force, making it difficult to evaluate the appropriateness of the deputy's actions. Instead, conclusory terms such as "resistive behavior" or "defiance" were used to justify the force as if they were self-explanatory. Moreover, the reports were entered into the JMS system in no particular order, resulting in any reviewer having a difficult time figuring out the chronology and each deputy's role in the event.

It is clear from a review of the reports that deputies have received little training on how to satisfy the dictates of the use of force policy and that sergeants have not been expected to review and return reports that do not satisfy those policy requirements.<sup>5</sup> As a result, the use of force reports prepared by deputies leave the Department with a record through which no fair conclusions can be reached about the appropriateness or legitimacy of the force used.

Further compounding the problem of conclusory, insufficiently detailed reports by deputies is the fact that sergeants tasked with reviewing force incidents and determining whether deputy performance was consistent with legal and policy guidelines must do so based almost entirely on these reports. Such a factual review is woefully deficient and fails to meet law enforcement industry standards for any investigation, let alone one in which a deputy has invoked his or her authority to use force. An investigative process that only includes deputies' version of events cannot be considered objective and neutral. Some sergeants we spoke to recognized this, and some actually declined to approve the force they were charged with reviewing because they did not have sufficient information to fairly evaluate the incident.<sup>6</sup> However, most use of force reviews

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<sup>5</sup> One of the innate difficulties of the JMS system that contribute to this phenomenon is the clunky, non-user friendly way by which reports can be edited and revised.

<sup>6</sup> The OIM identified similar deficiencies in the use of force reporting and review process in its September 10, 2014 letter to Councilman Paul Lopez, also the Chair of the Safety and Wellbeing Committee.

contain cover letters composed by the reviewing sergeant conveying a finding that the force was justified.

In addition to the lack of policy direction provided by Department policy to sergeants about what they should do in order to conduct an investigation that would meet minimal investigative standards, sergeants are provided no formal training on how to conduct such an investigation or review. As a result, sergeants are not equipped with basic investigative or reviewing skills to investigate and offer an opinion regarding the propriety of the force even were they intent on attempting to conduct a more complete investigation or review.

Consequently, the review of any force incident that is not referred to Internal Affairs for a formal investigation has little chance for a meaningful review in the Denver Sheriff Department. Unless an inmate complains or the event otherwise finds its way to Internal Affairs, there is virtually no likelihood that the force will be carefully and holistically reviewed for purposes of personal accountability, training or tactical issues, equipment issues, or issues of supervision. Accordingly, the Department loses countless opportunities to monitor and correct behavior in this critical arena.

### **Standards for Force Investigations**

In order for force incidents in the jail to receive the attention they require, the Department needs to restructure its internal investigative and review process. First, it must adopt minimal investigative standards and require sergeants assigned to investigate force to do the following, in addition to gathering and reviewing the deputies' narrative reports:

- Interview inmates that had force used on them.
- Interview inmates who witnessed the force and the events leading up to it.
- Interview non-deputy jail staff, including medical or mental health staff, chaplains, and others.
- Obtain medical records of any injuries or treatment to involved staff and/or inmates.
- Secure photographs documenting any injuries.

- Secure photographs of inmates documenting the absence of injuries, where relevant.
- Photograph any relevant areas of the jail where the use of force occurred.
- Collect and analyze any forensic evidence, including clothing and deputy weapons.
- Download and attach any video footage of the incident.

In addition to significantly increasing the amount of information gathered, the force investigator must ensure that the deputies' written reports are detailed enough for a comprehensive review. Those reports must contain thorough narratives of the events leading up to the force, the observations and actions that formed the basis for the use of force, and what happened after the force application, when the inmate was secured. If a deputy report does not contain sufficient detail, investigators should return the report to its author with instruction to provide the additional information.

DSD should consider whether to continue to assign the initial force investigation to the sergeant supervising the involved deputies.<sup>7</sup> There are advantages to this approach in that all first level supervisors will be empowered and entrusted with the responsibility of conducting a thorough and objective investigation of any force incident occurring within their unit. The investigative experience gained from this responsibility will improve every supervisor's interviewing and analytical skills. The robust review process detailed below would hold supervisor's accountable for force investigations that did not meet the Department's elevated expectations. If the Department continues with this approach, it should train every sergeant on the more demanding expectations and how to meet them.

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<sup>7</sup> In some cases, the sergeant is either involved in using the force, directing the force or present as a witness during some of the force event, and thus has personal observations of the incident from which to base his or her evaluation of the incident. In those circumstances, the sergeant's involvement creates an obvious obstacle to objectivity. Accordingly, these incidents should be assigned to an uninvolved sergeant for investigation and review.

An alternative approach would be for DSD to designate a cadre of sergeants assigned to conduct force investigations for any force event that occurs in the facility. Immediately after a use of force, an on-duty force review sergeant would be summoned to initiate an investigation. The advantage of this approach is that it requires training fewer individuals in the new protocols and increases consistency in quality of investigations. The tradeoff is that fewer sergeants will benefit from the increased responsibility and investigative skill growth that will come to those assigned this duty. A hybrid arrangement would be to continue to have the supervising sergeant conduct the force investigation, but to designate a team of experienced, specially-trained sergeants to serve as mentors or advisors who would assist the investigative sergeant – in real time – in ensuring compliance with the new investigative protocols.

## **Mechanisms for Reviewing Force**

### **Supervisory Review Documents**

In addition to ensuring a much more robust collection of facts, DSD must change its policies and protocols to require a more exacting review of force incidents. One device that we have seen effectively used to ensure that there is a meaningful force investigation and review are a set of extensive and detailed checklists that specifically detail the Department's expectations. Separate checklists created for the force investigator and those entrusted with reviewing the force investigation at each level helps ensure uniform and thorough coverage of the fact collection and review process for every force event, prompting supervisors to ask the right questions and confirm that the final force package provides an answer at each level of investigation and review. We have attached as an Appendix sample checklists that OIR Group members helped develop with the Los Angeles County Sheriff's Department for that agency's use.

## Force Review Panel

In addition to the more exacting paper review the checklists guide supervisors to conduct, we also recommend that a significant percentage of force incidents be directed to a panel of jail command staff for review.<sup>8</sup> While we leave it to the Department to determine the best structure and title for its “Force Review” panel, there are some basic features we believe are crucial. The investigative report should be forwarded to the panel ahead of the meeting so that they have command of the facts contained in the report. At the panel meeting, the supervisor responsible for conducting the investigation should present a narrative of the evidence and identify any issues emanating from the investigation. The panel should determine whether the force was consistent with policy and, if not, refer the matter for an Internal Affairs investigation. As importantly, the panel should consider the force incident and identify ways in which the tactics, force application, and post-incident handling could be improved. The panel should develop an action plan in which post-review remedial measures are identified and personnel are assigned to implement them. The action plan should consider what and how information will be conveyed to the involved deputies about the panel’s assessment and what information should be communicated to deputies Department-wide so that lessons from the incident can be effectively disseminated. Finally, the panel should critique and review the thoroughness and objectivity of the force investigation and, if need be, return the investigation for necessary follow up.

To assist in identifying issues and developing remedial plans, training division staff should attend the Force Review panel meetings to opine about the force application and any pre-event tactics. In addition, OIM representatives should attend and have access to the reports prior to the panel’s meeting so that they can independently identify issues and actively participate in the panel discussion. If this additional responsibility creates a resource challenge to either OIM or the

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<sup>8</sup> Again, OIR Group members helped the Los Angeles County Sheriff’s Department develop such a panel and have seen it work effectively to engage jail managers in successful efforts to reduce the number of troubling force incidents.

training unit, those responsible for resource allocation in Denver should be amenable to requests for additional resources to perform these functions.

Cases that involve use of force and are assigned to Internal Affairs for investigation should go through the disciplinary process that IA cases normally follow. However, because the IA process is primarily focused on discipline, upon conclusion of the disciplinary determination the case should be presented to the Force Review panel to determine whether additional remedial action should be taken, including, for example, briefings, training, training bulletins, mentoring or counseling for involved deputies, policy and equipment review, and review of any matters not covered by the disciplinary proceedings such as communication, tactics, supervision, and report writing. This approach will ensure that the more significant and concerning cases are also reviewed not merely for purposes of accountability and discipline but to ensure that the Department makes full use of the incident as a learning tool.<sup>9</sup>

Directing IA force cases through the Force Review panel process will also ensure the implementation of a key recommendation of the Training Task Force: the requirement that remedial training be included as part of the disciplinary decision. While training can be integrated into a disciplinary penalty, DSD has the discretion to design specialized training for deputies. Even in cases where the force incident does not rise to the level of a policy violation, training can and should be a frequently used part of any remedial action plan designed by the Force Review panel.

The creation of a Force Review panel or committee with a coordinator could also fill a role that is currently lacking in the Denver Sheriff Department, namely tracking for compliance with all non-

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<sup>9</sup> Additional DSD functions could and should benefit from this type of review. For example, the Department could more holistically review all deaths that occur in custody and any deadly force events that involve DSD units that function outside of the jail environment. A command-level review of these incidents is important to ensure accountability, but also to promote communication among various involved entities and to help the Department gain a perspective on how it can improve and possibly prevent future critical events.

disciplinary action or requirements coming out of alleged misconduct cases, such as training, counseling, and briefings. Our review found in the few occasions in which deputies were ordered to attend training following an investigation, there was no established means for ensuring that remedial measures were implemented. The Force Review committee coordinator could be responsible for this follow-up effort and for communicating back to the standing committee.

RECOMMENDATIONS 3 through 12: The Department should dramatically alter the way it investigates and reviews force incidents that are not referred to Internal Affairs, including the following:

(3) DSD should develop standards for investigating all uses of force that go beyond collecting involved and witness deputies' narrative reports and meet minimal investigative standards for thoroughness and objectivity.

(4) DSD should provide regular training to deputies on how to prepare use of force reports and to sergeants on how to review them to ensure compliance with current DSD use of force reporting policy.

(5) DSD should consider creating a cadre of sergeants at each jail facility specifically trained to conduct force investigations and reviews.

(6) In cases where a sergeant was involved in a use of force, directed the force, or was a witness to the force, DSD should assign the force investigation to a non-involved sergeant or a captain of the facility.

(7) DSD should create detailed checklists setting out the Department's expectations for investigation and review of force incidents to guide investigating sergeants and supervisors at each level to ensure a uniform and thorough coverage of the fact collection and review process.

(8) DSD should consider designing protocols whereby a Force Review committee reviews significant force incidents and a sampling of less significant force incidents. The committee should develop a written action plan for each force incident reviewed and ensure an effective feedback loop to present the results of any action plan back to the committee at a later time.

(9) DSD should improve its force review process to ensure that not only is the incident centrally reviewed to determine whether the force used was in policy but also to examine whether there was tactical decision making that was inconsistent with Department policy and expectations.

(10) At the end of the Force Review, officers involved in every force incident should be debriefed regarding how the Department considered the handling of the incident including the tactical decision making.

(11) In addition to deciding whether the force was in policy, DSD should examine force incidents to determine whether there were issues of supervision, policy, or training that it should address.

(12) DSD should use learning domains, such as training bulletins or briefings to ensure that information learned from force incidents is exported back to the line officers and first level supervisors in a meaningful way.

## Use of Force Policies

Much of the policy governing use of force for DSD is consistent with industry standards. However, we offer for consideration the following concepts designed to provide additional guidance and standards for DSD employees.

### **Preamble: Guiding Principles Surrounding Use of Force**

The Denver Sheriff Department's Use of Force Policy should set out straightforward and clear guidance to deputies about the expectations of the law and Department leaders with regard to the deployment of force. This critical message would benefit from a preamble setting out some overarching principles for deputies to consider. In drafting such a preamble, the Department should consider language such as the following, adopted by another law enforcement agency:

*The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.*

Any preamble intended to set out the principles of DSD's Use of Force Policy should similarly recognize how the ability to use force against incarcerated individuals should be deployed in light of deputies' overarching responsibility to keep inmates safe from harm. Because the philosophical framework and orientation of the use of force in a jail setting has crucial impact on the experience of all who work and live in that environment as well as stakeholders concerned about how that community functions, we recommend that DSD seek input from command staff, deputies, professional staff, inmates and their families, city officials, and community advocates in devising this preamble.

We recommend the Department consider additional language such as:

*It is the Sheriff Department's responsibility to provide a safe environment for the inmates and a safe working environment for Sheriff Personnel. All employees shall view their*

*professional duties, first and foremost, in the context of safety for themselves, other employees and inmates.*

*All jail personnel shall maintain a professional demeanor, according to each situation, keeping in mind the Department's values. All employees shall focus on upholding safety, respect and professionalism, even in situations where force is required. Our goal is to prevent force where possible through effective communication emphasizing safety, respect, and professionalism.*

RECOMMENDATION 13: DSD should add a preamble to its use of force policy that sets out the overarching principles and philosophy by which the use of force should be considered.

## **Providing Clarity in Definitions and Expectations**

### **Defining Excessive Force**

In current policy, excessive force is defined by simply referring the reader to the Colorado Revised Statutes, which defines excessive force as force that exceeds the degree of physical force authorized by law. A more helpful definition of excessive force that has general acceptance is: “The use of more force than is objectively reasonable to accomplish a lawful purpose.”

RECOMMENDATION 14: DSD should set out a more precise definition of “excessive force” in its use of force policy.

### **Defining Objectively Reasonable**

In current policy, there is reference to the need that any force used must be objectively reasonable, yet the term is never defined. One generally accepted definition is: “The force that an objective, trained

and competent peace officer, faced with similar facts and circumstances, would consider necessary and reasonable to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.”

RECOMMENDATION 15: DSD should set out a more precise definition of “objectively reasonable” in its use of force policy.

### Distinguishing Between “Immediate” and “Controlled” Force

Unique to controlled environments such as jails or prison, personnel are faced daily with situations where decisions must be made whether a threat requires an immediate response of force or whether there is time to plan or calculate a response to resolve a threat. In situations in which deputies have time to address a situation, their decision-making should be governed by a different force philosophy than in situations requiring immediate intervention. The force policy can help explain this distinction by providing guidance to deputies regarding the different types of force events.

The DSD policy and procedure should provide examples of “immediate” or emergent force such as a force response to break up a fight between inmates or a force response to an inmate physically attacking a deputy. In these instances the threat is such that the deputy must immediately respond with force as there is no time to plan a more calculated response.

On the other hand, an inmate may, while locked in his cell, refuse to comply with an order to submit to handcuffs for removal from the cell for a housing assignment change. In this instance, there is time to plan a force response that may be necessary to affect the cell reassignment. This is a “controlled” use of force situation in which time is on the side of the officers to plan the most effective and safest force response in order to limit the possibility of injury to the inmate and the staff. We suggest the following definitions and requirements:

- **Immediate Force:** Employees may use immediate force without prior authorization from a higher official when the behavior of an inmate constitutes an immediate threat to facility security or the safety of persons which demands action without delay. The nature of the immediate force precludes an approval process due to the necessity to use force without delay.
- **Controlled Force:** A controlled use of force is appropriate in an institutional/facility setting, when an inmate’s presence or conduct poses a threat to facility safety or security and the inmate is located in an area that can be controlled or isolated. These situations do not normally involve the immediate threat to loss of life or immediate threat to institution security. All controlled use of force situations require prior supervisory approval. Staff shall make every effort to identify physical disabilities and mental health issues and note any accommodations that may need to be considered before force is applied.

The concept of controlled force should also be integrated into additional policies, such as those governing cell extractions or dealing with a recalcitrant but not assaultive inmate.

RECOMMENDATION 16: DSD’s Use of Force policy should set out a distinction between “immediate force” and “controlled force.”

### Duty to Intervene

One of the core responsibilities of deputies assigned to the jails is to keep those housed there free from harm. The most frequent potential source of harm is from inmate-on-inmate conflicts, and deputies regularly intervene to stop assaultive behavior. However, unfortunately, there are times in which deputies may use force that is either unnecessary or excessive. When fellow deputies observe such conduct and are in a position to intervene, they should do so. While

this requirement is consistent with the overarching responsibilities of deputies to keep inmates free from harm, the responsibility is not explicitly defined in DSD's force policy. We recommend that the policy do so.

RECOMMENDATION 17: DSD's force policy should expressly advise deputies of their responsibility to intervene when they observe excessive or unnecessary force by fellow deputies and are in a position to do so.

### Removal of Dangerous or Belligerent Inmates from a Cell

When inmates display an unwillingness to follow deputy orders to leave their cells – to attend court, a medical appointment or to facilitate jail movement, for example – any immediate unplanned attempt to extract the inmate creates a high risk of a use of force with resulting injuries to the inmate and staff. For that reason, jail facilities have developed special policies to guide staff in resolving these situations. Recognizing that jails present a controlled environment and that time is usually on the side of jail staff, more deliberate strategies can be deployed to satisfy the objective sought while reducing the likelihood of using force.

To its credit, DSD has a policy regarding removal of “dangerous or belligerent” inmates that sets out some principles and procedures intended to deploy smarter strategies that could lessen the likelihood of force or injury. Those include requiring deputies to notify a supervisor prior to attempting to remove the inmate from the cell and requiring the supervisor to respond to the location and take over command of the operation, ensure that there are sufficient personnel to perform the cell extraction, and videotape the incident. While the current policy has some good features, it could and should go further to provide guidance and direction to deputies and supervisors in the following areas:

- **Broaden the definition of a belligerent or dangerous inmate.** In addition to inmates who are belligerent or who have a history of being assaultive with staff, the inmate who is simply refusing to follow orders or who may have mental health issues preventing understanding of orders should also be defined as coming within the dictates of this policy. Other behaviors that should come within the breadth of the policy would include continually exhibiting verbally defiant behavior; resisting or being uncooperative to any verbal commands given by jail personnel; displaying aggressive, assaultive, hostile or violent behavior toward personnel or other inmates; or passively resisting the efforts of personnel by ignoring commands or not acknowledging the presence of jail staff. Some agencies define inmates who are “recalcitrant” or “nonresponsive” to instruction as being covered by the policy.
- **Require video recording.** The current policy states that the supervisor “should” ensure that the handling of belligerent prisoners<sup>10</sup> and cell extractions are videotaped. We recommend that the policy indicate that the supervisor “shall” ensure that the handling of belligerent prisoners and cell extractions are videotaped except in circumstances where the emergent nature of the incident demands action before videotaping can be conducted.
- **Consider the exigency.** The recognition that in most instances time is on the side of the facility is a key consideration in determining whether and when to initiate a cell extraction. Supervisors must consider the exigency and importance of the desired inmate movement. In order to incorporate this concept, the policy should require the supervisor to set out a reasonable

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<sup>10</sup> For an unexplained reason, this policy, unlike other DSD policies refers to prisoners rather than inmates. For purposes of precision and uniformity, we recommend that the policy use the term inmates.

time period to allow the inmate an opportunity to comply with instructions.

- **Do not restrict necessary immediate action.** In the instance of an immediate threat of physical harm or other situations in which there is a need for immediate intervention, the policy should note that custody personnel shall not be restricted from taking appropriate action, including the use of force. The policy should also indicate that should the need arise to take action immediately, all personnel shall contact a supervisor as soon as the exigency to take immediate action ends.
- **Require high level approval.** Because of the high risk potential of these types of operation, some policies require that first level supervisors notify and/or obtain approval, when practicable, from the on duty facility commander before proceeding with the cell extraction. Advantages of such a procedure are that it provides more consistency on how the procedures are to be executed and results in more deliberation being brought into the process.<sup>11</sup>
- **Formulate a plan.** The policy should also require that the supervisor formulate a plan for the operation, assign duties to each member of the extraction team, and announce each member of the extraction team on video. The inmate should be advised on video tape of what he is being ordered to comply with and the consequences of his continued refusal.
- **Summon appropriate professionals.** For those inmates who have a history of mental illness or appear to be acting irrationally, mental health professionals should be summoned and asked to interact with the inmate to determine whether

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<sup>11</sup> We were informed that as a result of recent changes in practice, supervisors were instructed to seek captain or major approval when practicable before executing a cell extraction. While this practice is admirable, written policy should reflect that practice.

they might be able to successfully counsel the inmate to voluntarily comply.

Likewise, if a chaplain is on site that has a history of dealing with the inmate in question or the inmate has been working with a teacher or other facilitators of jail programs, staff should request that they talk with the inmate in an effort to gain voluntary compliance.

Finally, medical personnel should be called to the location so that they can provide immediate assessment and treatment of any injuries that may result from the cell extraction process.

RECOMMENDATION 18: In an effort to reduce the need to resort to force, DSD policy should provide additional specific guidance to deputies and supervisors with regard to dealing with inmates who refuse to follow jail movement orders or come out of their cells.

### Taser Use

The DSD Taser policy was revised in July 2014 to require a higher threat level prior to deployment and to restrict use of the Taser in stun mode. However, the written vehicle used to revise the policy was a memorandum circulated to jail staff by the then-Sheriff. As a result, deputies cannot rely on the current “policy” for their guidance on Taser use but must be aware of the “memorandum” that substantively alters the policy.

Moreover, the Policies and Procedures Committee worked for a number of weeks in 2014 to propose additional reforms to the Taser policy. Our review of the proposed changes by the Task Force finds them well-founded, and we recommend they be implemented.

In addition, we found the following additional concerns with the policy:

- **Warnings.** The current Taser policy says that deputies shall communicate warning of use, when possible, to other deputies but does not direct deputies to provide a warning to inmates. DSD has found that a simple warning to inmates that a Taser is about to be deployed can cause the inmate to comply with dictates, eliminating the necessity to deploy the weapon. The Taser policy should include a requirement that inmates be warned whenever practicable.
- **Removal of Darts.** The current Taser policy allows for the removal of darts by “authorized Taser officers” but the policy later states that medical staff will evaluate, clean and treat Taser wounds “as appropriate per medical protocol” and then says elsewhere that probes/darts that have penetrated the skin will ONLY be removed by officers trained in the use of the Taser or by medical personnel consistent with their professional standards and training. The Department should address this ambiguous and potentially conflicting guidance with regard to the removal of darts.

RECOMMENDATION 19: The policy governing use of the Taser should be modified to include the recommendations of the Policies and Procedure Committee, as well as to require a warning to inmates prior to use of the Taser when practicable and to clarify the requirements regarding removal of Taser darts.

### Tracking Taser Usage

The Taser is equipped to collect data that can be downloaded after every use. The available information provides the time of day and the number and length of every Taser activation. The data can be helpful to assess the appropriateness of the use of the Taser and whether that use complies with Department policy and training. As noted in the

Auditor's March 2015 Performance Audit of jail operations, the Department's compliance with its policy requiring Taser data to be downloaded has been uneven.

In addition, DSD policy requires that a Taser usage form be completed every time that a Taser is deployed. Again, the Auditor's report noted that the usage forms were not always submitted and when they were, not all data fields within the form had been completed.

Unlike most weapons, Tasers are unique in that there is a readily retrievable data source that can inform supervisory staff when a Taser is deployed. By not enforcing its download policy, however, DSD is forfeiting its ability to effectively track Taser use and determine whether deputies are deploying the device in a manner consistent with Department expectations. For the same reason, the Taser usage report should match up with the number of Taser deployments reported by deputies.

Whenever the Taser is used intentionally (as opposed to accidental discharges), that use should be recorded in the Jail Management System. The Taser usage report should be more seamlessly integrated with the JMS report requirements so that a deputy and the responsible supervisor will recognize the need to complete that form as well whenever the Taser is deployed.

Moreover, other than reports on the frequency of use, there is no evidence that DSD is using the information available from Taser use to determine trends and frequencies of use among deputies or within areas of the two jails. Because of limited resources and authority, training staff have not been deployed to examine the data to provide insight on Taser use throughout the Department.

RECOMMENDATION 20: The Department should more rigorously enforce its existing requirements regarding the collection of data and information about Taser deployments and should regularly examine this information to determine trends among deputies or within areas of the jails.

## Chemical Agents: Decontamination Requirement

Pepper spray is one of the force options available to deputies for use in the jail. The spray consists of a chemical compound that irritates the eyes to cause tears and pain. With the temporary loss of vision, deputies are able to more easily restrain inmates without a significant risk of permanent injury.

Because the introduction of this chemical agent continues to be painful, it is important that the inmate's eyes are decontaminated with water or saline flush once deputies have secured the inmate. Because DSD policy has no specific policies relating to chemical agents, there is no decontamination procedure in its policy. While the Department's policy has a general requirement that deputies notify medical staff and escort the involved inmate to the medical unit for screening after a force incident, we recommend that the policy include a specific provision requiring decontamination following the use of chemical agents. A straightforward procedure used by many jails is to require that after the situation is stabilized and the inmate is secure, he or she be immediately escorted to medical for a decontamination procedure or alternatively, that medical be immediately summoned for treatment.

RECOMMENDATION 21: The Department should develop a policy specifically requiring deputies to get medical assistance for inmates who have been subjected to chemical agents so that their eyes can be decontaminated immediately after stabilizing the situation and securing the inmate.

## Escorting Inmates to Medical Unit Following a Use of Force

The Department's use of force policy properly requires that any person on whom physical force has been applied, regardless of type or amount, be screened by medical personnel. The policy further requires that the deputy who used force has the apparent

responsibility to escort the inmate to the medical unit for the screening. Given the inherent tensions between the participants in a force incident, we recommend that the Department shift the decision on who escorts the inmate to the sergeant. The policy should further guide the sergeant to assign the escorting responsibility to an uninvolved deputy to reduce the likelihood of additional force or conflict.

RECOMMENDATION 22: The Department should modify its policy to require sergeants to direct which deputy is to escort an inmate who has been involved in a force incident to the medical unit. Unless there are no other options, a deputy who used force should not be assigned to do the escort.

## **Training Issues**

### **CIT Training**

Crisis Intervention Team (CIT) training provides deputies strategies to defuse conflict situations and reduce the likelihood of needing to resort to force. The training educates deputies on dealing with inmates who may have a history of mental health issues and instructs on how different strategies may be more effective in interacting with them.

DSD's CIT training and curriculum is consistent with industry standards. Indeed, the coordinator of the training has received recognition for his program and been requested to train other law enforcement agencies with custodial functions. DSD reported that last year 31 deputies received CIT certification, that 55 percent of deputies were currently certified in CIT training, and that the goal was to certify 120 additional deputies by 2016. The Training Committee recommended that all deputies employed by the Sheriff's Department received CIT certification.

We agree and endorse the Training Committee's recommendation. We are also supportive of DSD's intent to substantially increase the pace of certification. While we commend the Department for the number of deputies who have already been certified, we note that, according to DSD, over twice as many deputies received certification in the use of the Taser and nunchakus over the same period of time. If training priorities need to be set, CIT training should be at or near the top of that list.

DSD and those responsible for budget allocation should also consider ways to ensure that those responsible for the CIT program receive sufficient resources and training to expand and improve the program. We have seen in other agencies how the ability to effectively deal with inmates in mental health or behavioral crises can be improved by involving stakeholders such as mental health and medical professionals in refining and presenting the training curriculum. DSD should find ways to ensure that its CIT coordinator has the authority, the flexibility, and the time to continue to improve upon CIT training in Denver and incorporate the input of other important voices into the design and delivery of the program.

Even with a stepped up CIT training program, it will still take several years to attain the goals of certifying every deputy who has a jail assignment. And even if every deputy is certified, it is clear in our experience that some individuals are better suited than others to absorb and embrace the techniques and methods taught in CIT. More care should be taken toward assigning those deputies who have excelled in the CIT program to the Special Housing areas where inmates who have a history of mental illness reside, and to Intake, where these inmates may not yet have been identified. Our review of duty rosters indicated that there was not a sufficiently concerted effort to consider that factor in determining deputy assignments.

RECOMMENDATION 23: DSD should continue to work toward providing CIT training to each of its deputies assigned to a jail facility. DSD should also ensure that the CIT training coordinator has the time and ability to incorporate outside stakeholders such as mental health professionals into the CIT curriculum and training development. When considering deputy work assignments, DSD should make a concerted effort toward assigning deputies who have excelled in CIT training to areas where they are most likely to encounter inmates with a history of mental illness.

### **Training on Perishable Skills for the Jail Setting**

We have observed in other agencies that the more confidence officers have in their ability to control resistive or aggressive inmates through the use of chemical agents, control holds, and takedowns, the less likely they are to use punches, strikes to the face, chokeholds, or other force options more likely to cause injury to themselves and inmates. Yet these skills are highly perishable and require regular practice to maintain at a proficient level. Deputies have 40 hours of in-service training every year, during which they spend roughly half a day on defensive tactics and other force issues.<sup>12</sup>

We have seen other agencies successfully create small blocks of training that can be provided at a jail facility, so that deputies do not need to take a full day away from their posts in order to train. Instead, supervisors find ways to carve out an hour or two of time during which a small group of deputies can receive training to learn new techniques and maintain their skills. We understand that DSD is

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<sup>12</sup> By contrast, deputies are required to qualify with their firearms four times per year, despite the fact that only those relatively few deputies assigned to work inside courtrooms regularly carry their guns on duty.

stretched thin in its staffing models, and deputies frequently work overtime to fill needed posts. As the Department reexamines its staffing models, it should consider ways to create enough flexibility in scheduling to allow deputies to more regularly train on force tactics targeted to the jail setting.

RECOMMENDATION 24: The Department should consider ways to allow more regular ongoing training on force tactics targeted to the jail setting, including the possibility of providing training at the jail facilities.

### **Using Data to Develop Force Training Curriculum**

During our review, we were able to review force training and talk on several occasions with DSD's force training team. We found the training effective and the instructors engaged. However, the force training team is largely divorced from other force data sources within the Department and historically, has not been empowered to more readily engage with these data points.

We recommend that DSD work to empower the force training unit to become more integrated with other force investigative and review functions. As examples of this integration, elsewhere in this chapter we recommend that the training unit have access to video of force incidents that occur in the jails to use in their training curriculum. We also recommend an active role for the training unit in reviewing actual force incidents at the use of force panel reviews we discussed above.

In addition, the training unit should have unfettered access to force reports to enable them to identify trends and adapt their training accordingly. DSD should also provide the training unit with any results of audits that assess numbers and types of force incidents or provide any other breakdown and analysis of force data.

Complying with these recommendations will require an increase in the current resource allocation to training. We recommend that there be increased dedication to the training mission at DSD in order that

training staff have a more measurable and meaningful footprint in the Department as it relates to force.

RECOMMENDATION 25: The Department should increase the profile of its training unit to allow training staff access to force reports and any force data or analysis the Department generates as well as to encourage its participation in the review of force incidents.

## **Force Data Issues**

### **Unreliability**

Currently, DSD policy requires any deputy who uses force or witnesses force to enter a narrative of the incident into the Department's Jail Management System (JMS) and fill out data fields that describe, among other things, the types of force used and injuries sustained, along with a narrative description of their own actions and observations. Despite a significant amount of training for personnel on using the JMS system, there is lack of uniformity in deputy and sergeant data entry. Because there is little quality control over data entry, deputies inconsistently fill out the force data fields while leaving many fields empty,<sup>13</sup> and these deficiencies are remedied rarely, if ever.

As a consequence, any attempt to use the JMS system to aggregate force data results in unreliable and inaccurate information. For example, a search for jail suicides indicated that there were 31 suicides in 2014 when in fact there were none. A JMS search indicated that a new deputy was involved in twelve uses of force in one month, when in reality he was not involved in any.<sup>14</sup> Considering the multitude of

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<sup>13</sup> DSD continues to try to address this inconsistency by revising its use of force reporting policy to provide further clarification and direction on JMS data entry. Another proposed revision is in the works and working its way through the Department's approval mechanism.

<sup>14</sup> In this case, a new deputy apparently thought that he needed to check the "force" box whenever he handcuffed an inmate. But this phenomenon is not

“false positive” information, there is most likely a similarly high frequency of force incidents that are not effectively captured by the JMS system. The aggregate data from JMS for force and suicides is so unreliable that DSD data analysts asked to provide information about force or other critical incidents must physically pull and read scores of actual incident reports to obtain the requisite data.

The lack of reliability of the Department’s data results in a wholesale lack of confidence in any conclusions to be drawn from it. For example, DSD reported in its most recent Annual Report that suicide attempts had decreased by 15 percent. However, because of the uncertainty that the data is accurate, one cannot know whether the decrease was real or simply a function of differences in data entry or reporting of the suicide attempts. This means that any attempt to draw conclusions about the data is necessarily compromised, and any reports that rely on the data, such as OIM’s Annual Reports, must include appropriate disclaimers.

Because jail commanders know they cannot trust the aggregate data in the JMS system, many have developed their own independent tracking systems. For example, rather than use the JMS system to track force incidents, jail commanders have created independent Excel sheets to track the incidents that are not integrated into the JMS system. This is an admirable “workaround” on the one hand, but no real substitute for a functioning and integrated system.

One alternative approach to consider would be to restrict the entry of data to fewer jail staff. Clearly, the narrative reports need to be completed by the involved and witness deputies, but some agencies then have specially trained staff review those narratives and other data to ensure that the classification and data field entry are consistent with the narrative. In any event, until the Department is able to populate a system that can provide a level of confidence in its data, it will be significantly compromised in its ability to conduct data analysis, audits, tracking of deputy performance, and perform many

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limited to one misinformed outlier, the same study found that JMS showed that eight deputies had three or more uses of force whereas the incident reports did not indicate that any force was used in any of those incidents.

other functions essential to an advanced law enforcement agency. This data deficit is a leading weakness of the Denver Sheriff Department and is one of the largest challenges facing DSD today.

RECOMMENDATION 26: DSD should devise a remedy to ensure that its aggregate force data is reliable.

### **Data Analysis and Auditing**

DSD currently devotes two individuals to analyzing data and performing similar functions.<sup>15</sup> This unit has provided a high quality and quantity of analytic work despite the need to conduct much of the data collection through onerous and time consuming review of report narratives. In order for any law enforcement department the size of DSD to truly understand the nature of force used in its jails and the extent to which it is problematic, it must have and regularly analyze significant amounts of data – the number of force incidents, types of force used, injuries to inmates and deputies, the inmate population that is the subject of force, where in each facility force is used most frequently, on which shifts force is most often used, supervisors on duty at the time of each incident, and many others.

In addition, DSD needs to strengthen its ability to conduct audits to ensure that there is policy compliance in the areas of force reporting, training, remedial plans, and performance evaluations, among others. The important risk management functions that robust data analysis and internal audits can provide are critical features of any progressive law enforcement agency.

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<sup>15</sup> We understand that this allocation will be decreased to one individual as of June 2015. We have been informed that the Denver Police Department has seven employees dedicated to this assignment.

RECOMMENDATION 27: DSD and those responsible for resource allocation should devote sufficient resources to support a robust data analysis and internal auditing function.

### **Tracking Deputy Force**

To date, the Department has not tracked force used by individual deputies in any systemic way. To its credit, DSD has recently recognized the value of a timely tracking function. As a result of a different data analysis project, the Department learned that deputies had repeatedly Tasered a handcuffed, deaf female inmate with mental health problems during her various stays in jail. During one 75-day period, she was tased a total of 12 times; with nine separate Taser applications in one incident, six of them by the same deputy.<sup>16</sup> Unfortunately, the Department's embryonic effort to track force is severely disadvantaged by the data reliability issue discussed above.

Furthermore, DSD has not sufficiently considered how the force data should be used, how to factor deputy assignments in making force comparisons, and most importantly and challenging, the remedial response when deputies' force use diverges from similarly situated employees. The propriety of each use of force is addressed by internal administrative investigations. The effort to address deputies' force history, however, requires a careful, thoughtful approach. It is not enough to simply note that a deputy has used a disproportionate amount of force – that he or she has hit a “trip wire” or reached an arbitrary “quota.” Rather, if a deputy's force history raises concerns, the Department should develop a carefully tailored remedial program. DSD has work to do in this area to ensure that the response to deputies involved in greater than average numbers of force incidents is intended to address the issue in a holistic, non-punitive way.

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<sup>16</sup> As a result of unrelated misconduct, that deputy is no longer employed by DSD.

RECOMMENDATION 28: Prior to launching a deputy force tracking program, DSD should ensure the force data is reliable, that there is an accounting for jail assignment in the analysis, and that the Department is committed to devising a non-punitive remedial action plan that is tailored to address concerning deputy performance.

### **Jail Video Cameras**

Denver's Downtown Detention Center has banks of video cameras that provide comprehensive coverage of jail activity. In contrast, the County Jail has few cameras. We have been informed that current plans call for installation of a number of additional cameras in the County Jail. The cameras in the downtown facility have already proven their worth in assisting with the assessment of the propriety of force used in the jail. In addition, the cameras can and do assist in providing a video record of inmate on inmate assaults, helping supervisors track whether deputies are performing their assigned rounds, evaluating allegations of other personnel misconduct, and providing an evidentiary record that assists in establishing violations of jail rules. We understand that the Department plans to install significantly more video cameras in the County facility and urge that these plans be expedited so that the County Jail can also benefit from a full coverage of cameras.

Until very recently, the short retention time in which video could be retrieved from the cameras was a significant limitation of DSD's video camera system. After approximately 30 days, the video system taped over existing footage, making any retrieval of video beyond that time impossible. We learned of at least one instance where an Internal Affairs investigator was attempting to download video for evidentiary use while the footage was at that moment being taped over. The investigator described watching the footage he wanted to download pixelating away. The Department has been aware of this limitation on retrieving video for quite some time, but it was only brought to public

attention last year by the OIM in a letter to City Council. Recently, the Department of Public Safety announced new policy with regard to the retention of video. The most significant modification requires that Internal Affairs be informed of all use of force incidents that have been captured on camera and that IA then immediately download any footage of the incident. Under the new policy, this information will be retained for at least five years. In addition, the City announced it will hire a video retention specialist to assist IA with the video downloading process.

While the new policy and commitment of additional resources to capturing video is a significant step in the right direction, the new revised policy is dependent on a number of communications effectively happening in a timely way for all force incidents caught on video to be retrieved – deputies must immediately report force, the facility must notify IA, and IA must respond in a timely fashion in order to capture the video. Because this policy has a number of moving parts and new reporting, review, and downloading responsibilities, it should be subject to auditing and review to ensure that it provides an effective mechanism for capturing video of critical incidents.<sup>17</sup>

RECOMMENDATION 29: The Department’s internal auditing function should regularly review the Department’s compliance with the new video downloading and retention policy.

### Access to Video Camera Footage

As noted above, when a force event is captured on video, the recording can be of immeasurable value in evaluating the force. However, current DSD protocols limit retrieval and viewing of video to the Internal Affairs Bureau and the highest levels of command staff.

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<sup>17</sup> As noted above, the OIM first raised this issue to the public’s attention, and will likely follow up on this issue with audits of the effectiveness of the new retention policy. DSD should facilitate these audits.

As a result, the first level supervisors tasked with collecting the preliminary information documenting a force event are prohibited from viewing the video footage of that incident. Instead, a captain or major is supposed to view the video and then compare it with the reports that have been submitted by the involved and witness deputies and the sergeant. The extremely limited access to video events is largely the result of concerns that jail staff may have improperly leaked downloaded recordings to the media.

In our view, the blanket restriction of videos from first level supervisors is an overreaction to the concern about inappropriate transmittal of evidence to unauthorized individuals. Instead of restricting access because of a few potential bad actors, DSD should have focused efforts on making the system more immune from anonymous, inappropriate downloads and identifying and holding accountable any violators of the Department's trust.

RECOMMENDATION 30: Sergeants should be afforded the opportunity to view video evidence so they can adequately conduct an initial force investigation and review.

In addition to being of important evidentiary value for evaluating force and other actions in the jail, the video footage can be a powerful tool for training purposes. In our experience, using actual footage of force events in a training setting provides the potential for a more powerful and impactful message to deputies. However, because of the blanket restriction on access, DSD's trainers have not been able to either access or use actual video incidents of force in a classroom setting.

RECOMMENDATION 31: The Department should develop protocols that would allow its force experts to use video of actual force incidents as teaching tools.

## Transparency

Law enforcement organizations have a history and culture of secrecy, confidentiality, and insularity. The development of that longstanding culture can be attributed to the very nature of law enforcement; many law enforcement activities are subject to confidentiality rules designed to protect the privacy rights of those that come into contact with the criminal justice system. In a jail setting, the rights of employees and those housed there not to be subjected to unnecessary intrusions are important considerations that have shaped the way in which those institutions guard information and interact with public requests for transparency.

This tradition of guarded, “need to know” information sharing has also applied internally, to a variety of functions within the organization. Some of this emphasis on confidentiality is, of course, legitimate in terms of protecting investigative integrity and individual privacy rights. However, in many law enforcement organizations, this shroud of secrecy has extended to other functions and decision-making within the organization such as the evaluation, job assignment and promotion process, policy development, and use of force assessment.

Consistent with the “closed society” tradition of law enforcement, the Denver Sheriff Department does not have a long history of making internal information accessible to the community. To its credit, DSD has recently made significant strides to increase its level of transparency, particularly since the recent attention drawn to its activities. As an example, DSD has for the past two years released a substantial annual report that communicates a significant amount of information about jail workings and statistical comparisons to years past with regard to inmate count, inmate stay, and other important information. The annual report also provides information about the various units that comprise DSD and is a helpful primer for its public in that regard. In an effort primarily to promulgate information and feedback from within the organization, the Sheriff has recently engaged more publicly with Department employees, as evidenced by his Sheriff’s Forum interactions. Finally, the City and the Department

have led an open and transparent process with regard to the work and recommendations of the four committees that were tasked to study and develop recommendations in the subjects of policy, training, staff wellbeing, and discipline. This is a welcome approach toward shining light on issues surrounding these topics.

Despite these admirable developments, there still remains a lack of transparency in DSD's use of force in the jails and its internal investigative processes.<sup>18</sup> Important stakeholders such as advocacy groups, civic leaders, and the residents of Denver know and learn little from the Department about use of force cases or allegations of misconduct involving DSD personnel. For example, neither the annual report nor DSD's website has any information about the number of force incidents nor any breakdown or analysis of that data. Similarly, DSD does not promulgate any information about the number or type of misconduct allegations received, the disposition rate or trend analysis. As a result, the Denver community has relied for virtually all of its information about use of force, internal investigations, and accountability from outside sources. With particular regard to the Internal Affairs function, the information vacuum has been filled to some degree by the robust and independent public reporting of the Office of the Independent Monitor. Apart from the OIM however, DSD should recognize it has its own responsibility to communicate with the public about these critical incidents and how the Department is addressing them.

Similarly, our review found that systemic issues surrounding force and misconduct investigations rarely found their way to Department members at large. As a result, use of force and the IA system is shrouded in mystery. Department members have little clue about the workings of the process and the types of cases and misconduct they address. What little information Department members do learn comes largely from the rumor mill and is inaccurate as often as it is correct.

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<sup>18</sup> To its credit, in response to media reports, the City has recently publicly reported on its recent achievements in reducing Internal Affairs case timelines.

It is incumbent upon DSD, while balancing the privacy rights of employees and inmates, to continue its recent move toward more transparency and to publicly inform its employees and the people of Denver about the frequency and type of force incidents in the jail and allegations of misconduct, along with the Department's efforts to ensure robust and timely responses to these events.

RECOMMENDATION 32: DSD should use its website and other social media to provide employees, stakeholders, and the public at large with more information about the number and type of force events occurring in the jails, the number and nature of internal investigations, and systemic analysis of this data.

# Internal Affairs

Investigating its members and holding them accountable for potential violations of policy, allegations of misconduct, and other transgressions is a key function of any law enforcement agency. Credibility inside the agency – and with the public – depends on it.

In the DSD, as in most agencies, the Internal Affairs Bureau is responsible for investigating complaints and allegations of misconduct by DSD employees, including allegations of unnecessary force, discrimination, harassment, or any conduct that threatens the integrity of the Department. In a December, 2013 report, the Independent Monitor noted that DSD had violated its own policy by failing to refer or have IA investigate 45 of the 54 inmate grievances alleging serious misconduct filed in a two and a half year period from 2011 to 2013. That report contained a number of important recommendations to ensure that inmates have greater access to the grievance system, and that complaints are appropriately routed to Internal Affairs. As DSD implemented those recommendations, and sought to handle the 45 old grievances that had not been properly investigated or reviewed, the caseload at IA grew, contributing to an already existing backlog of overdue cases that was the result of years of

inadequate resources, internal leadership failures, and the lack of an effective system for monitoring investigations.

As concerns about the use of force in the jails and other structural issues within the Department prompted increased public scrutiny of the DSD, the Mayor and Director of Safety sought to address the problem of overdue cases and other concerns regarding IA by hiring a retired Sheriff of an adjacent county to serve as Interim Director of the Internal Affairs Bureau, providing him additional resources, and empowering him to implement reforms within the Bureau. During his short tenure with the Department, the Bureau significantly reduced the backlog of cases and instituted a number of policy and protocol changes aimed at improving the quality of investigations and the efficiency with which they are handled.

It was within this context that we conducted our review of DSD's Internal Affairs Bureau. Because the Department – commendably – was not waiting for this report before moving forward with some important reforms, the IAB we saw as we began our work in November 2014 looked different from the IAB that exists today. Some obvious and glaring deficiencies we saw initially have been addressed. For example, the Bureau now has an established format for its investigative reports that all investigators use, whereas earlier IA reports may or may not have contained certain information and were often disorganized and, as most recently reported by the Auditor, incomplete. Investigative reports also will now contain transcripts of subject employee interviews, at a minimum, thanks to the decision to assign a transcriptionist to IA. The backlog of past-due IA cases has been largely eliminated, and we anticipate that new investigations will be completed within the 90-day goal the Interim Director set.<sup>19</sup> There is a new system for triaging cases that come into IA, to help investigators prioritize their activities. Finally, when we first met IA

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<sup>19</sup> Unlike many jurisdictions, there is no statutory deadline for the completion of Internal Affairs cases. As a result, cases were sometimes allowed to languish for years at the Denver Sheriff Department, in defiance of universal principles that case resolution and discipline should be timely, and much to the understandable consternation of the subjects of the tardy investigations.

leaders at the end of 2014, the Bureau still had significant infrastructure problems, ranging from only one interview room to inadequate space and equipment for all investigators. While construction on additional interview rooms is still ongoing, currently all investigators at least have their own desks and cubicle space.

One significant deficiency that is not easily remedied is the lack of meaningful data relating to Internal Affairs investigations. As with the use of force issues we discussed above, the inability to accurately quantify the number and types of misconduct allegations the Department confronts hampers the ability to recognize problems and identify solutions. The Department introduced a new database in 2013 – IA Pro – that has the capacity to gather for analysis a great deal of useful information. Unfortunately, IA personnel had not received sufficient training on how to use the database until this year, so that it is not being utilized to its fullest potential. Investigators were frequently leaving data fields empty, and the Department was not using what information can be gleaned from the database to help improve its operations. We agree with the statement in the Auditor’s recent Performance Audit that highlighted this lost potential: “Without conducting data analysis, IAB has been unable to identify important trends within the discipline and internal investigation process that may have increased efficiency, improved operations, and proactively reduced risk by implementing corrective actions in a timely manner.”<sup>20</sup>

In response to the Auditor’s report, the Director of Safety noted the steps already underway to improve the quality and consistency of IA data – IA Pro training and a plan to delegate data entry to a limited number of individuals. We are hopeful that the right tool, with the right training, will give Department managers reliable information they can use to more effectively track misconduct, identify trends, and manage investigative caseloads.

Recognizing the advances that have already been made, in the following sections, we set forth our recommendations for ways to

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<sup>20</sup> Denver Sheriff Department Performance Audit, Office of the Auditor, March 2015, pp.35-36.

improve DSD's processes for investigating and resolving allegations of misconduct by its employees. The purpose of an internal investigative and disciplinary system is not just to punish egregious wrongdoing. Certainly, the Department has an obligation to root out deputies incapable of performing their duties in a lawful and respectful manner. But the vast majority of misconduct cases do not involve the type of conduct that leads to termination. In most cases, when DSD employees violate policy, the Department's goal should be to promote constructive improvement as well as accountability. To accomplish that end, investigations must be initiated and completed quickly, with consistent and proportional outcomes that change future behavior for the better instead of driving a wedge between Department and employee. Though we see many positive recent developments in the quality and timeliness of investigations, there remains room for improvement in the Department's efforts to resolve matters efficiently and constructively.

## **Management and Staffing**

The Internal Affairs Bureau is currently staffed with six DSD sergeants and four senior investigators<sup>21</sup> who recently were hired from outside the Department. This represents a significant increase in the number of personnel assigned to the Bureau, up from seven investigators a year ago. Collectively, they report to a Captain, who reports directly to the Sheriff. Law enforcement agencies typically staff their Internal Affairs units with officers who have significant investigative experience. The Denver Police Department, for example, assigns officers to IA from its Detectives, Domestic Violence, or Narcotics branches. Because the DSD has no patrol functions and its deputies are not certified peace officers with the authority to investigate crimes, there are no such assignments within the Department. As a result, there is no pool of sergeants with proven investigative skills from which IA can draw.

Our comments regarding the dearth of proven investigative skills are directed not at the IA staff members we met, whom we found to be

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<sup>21</sup> The hiring process for a fifth senior investigator is underway.

smart and talented. Instead, we mean to point out the organizational limitations of DSD. The Interim Director recognized fairly quickly last fall that training and mentorship could not provide the type of expertise that years of working as a detective bring, and sought and obtained Denver's approval to hire a cadre of retired law enforcement officials from other agencies to work with the existing IA sergeants. These "senior investigators" were hired in the fall of 2014 on a contract basis and have recently been retained as permanent Denver employees. They brought with them decades of relevant experience from their respective agencies.

Initially, each senior investigator was paired with a DSD sergeant so they could teach each other – the senior investigators had much to learn about the workings of the DSD, and the IA sergeants benefitted from the insights of the experienced detectives. The teams recently have been separated, with each investigator carrying his or her own caseload.

We strongly support the Department's use of outside investigators to staff Internal Affairs. In addition to filling the gap in investigative expertise created by DSD's organizational structure, having individuals from outside the Department's hierarchy as part of the IA mission brings other benefits. Internal Affairs investigations are sensitive, and sometimes involve higher ranking officials accused of misconduct. It can be unfair to burden a sergeant with the duty to conduct a thorough investigation of those matters. The DSD sergeant likely has an interest in promotion or at least one day moving on to other assignments, and may therefore either succumb to subtle pressure to go easy in a sensitive interview, or may later feel like he was retaliated against in movement or promotional decisions because he too rigorously pursued a matter. A senior investigator has no promotional opportunities and is therefore relatively immune from these types of influences. We have seen other agencies successfully use retired detectives to staff their Internal Affairs units and have no reason to believe the hybrid model will not continue to work well in DSD.

RECOMMENDATION 33: The City/County should maintain its commitment to staffing Internal Affairs, at least in part, with senior investigators hired from outside the Department to bring necessary investigative expertise to the Bureau and to help insulate investigators from internal pressures.

### **Selection Process**

Because of the lack of personnel with proven investigative skills, the selection process for assignment to IA has been a mystery. Current or former IA investigators repeatedly told us about how they were working as a sergeant in another position and had no inkling they were being considered for an IA assignment, but simply received a call or summons from DSD command staff informing them to report for their new IA assignment the next day. There is no application process for the position nor any formal way to express interest in the assignment. The process is arbitrary and without any fixed guidelines. We were also informed that unit commanders of IA had relatively little influence regarding the sergeants who were selected for the unit. At the same time, and to DSD's credit, experience at IA seems to be a path to promotion.

Particularly because an IA assignment can serve as a stepping stone toward future desirable assignments, the selection process should not be shrouded in secrecy. The Department should develop written protocols and an application process. Disqualifiers such as being the subject of a pending IA investigation or having significant and/or recent disciplinary history should also be set out in writing. The unit commander should interview qualified candidates, and the Department should consider developing an evaluative test as part of the process. If the application process produces a paucity of qualified candidates, the unit commander should retain the authority to solicit sergeants for the position. The IA assignment should continue to be a

coveted assignment within the organization with an open and transparent selection process.

RECOMMENDATION 34: The Department should regularize the application and selection process for IA investigators so that the process is more transparent.

RECOMMENDATION 35: The Department should develop a set of guidelines stating the general qualities necessary to be an IA investigator as well as those traits that would disqualify a sergeant from assignment to IA.

RECOMMENDATION 36: The Department should give deference to the IA unit commander to choose for IA assignment the most capable sergeants within DSD.

## **Training**

The IA investigators we met described the training they received when first assigned to the Bureau as “on the job training,” or “learn as you go” – basically arriving at the unit and being handed a stack of cases to work. The formal training the Bureau generally provided consisted of attending a class that is supposed to help investigators determine through observation of body language in an interview whether a person is telling the truth. The other class that investigators were sent to consisted of developing interview techniques designed to extract the truth from interviewees.

Particularly in an organization that does not have deputies with any history of investigative assignments, this training was largely inapplicable and woefully inadequate. The Department recognizes

this deficiency and is in the process of implementing some basic training curricula for new IA investigators that includes training in IA Pro, report writing, interviews and interrogation, and leadership skills.

The new requirement is a step in the right direction, but not a basis for complacency. The training that investigative sergeants need but still do not receive involves subject matters such as interviewing techniques designed to avoid the use of leading questions and the complexities added to the interview when an employee representative is present at an interview. A more sustained search for relevant training and/or a greater effort to design in-house training would assist in the development of the critical skill sets for sergeants beginning their IA assignments.

RECOMMENDATION 37: The Department should develop a written policy setting forth a minimum amount of training a new IA investigator must receive at the beginning of his or her assignment. This training should include instruction more closely tailored and relevant to the unique functions of Internal Affairs.

### **Command Structure**

IAB has had a number of leadership changes in the past year. It was once commanded by a Major, and also had an assigned Captain. The Major was moved to another assignment in early 2014 and was never replaced. In the middle of 2014, the Captain was removed from his assignment and for two months, a Sergeant became the acting unit commander before the Interim Director arrived in the fall. The Interim Director left at the end of February 2015, and a Captain now is the head of the Bureau.

We are optimistic that IAB has been re-stabilized following the disruption of the past year. However, we have concerns about the propriety of IA being commanded by the rank of captain. In DSD,

captains are members of the same bargaining unit as deputies. This creates a potential conflict, in that those being investigated most often are represented by the same entity that represents the individual directly responsible for the investigation. Ideally, there should be a rank between the sergeants who do the investigative work and the commander of the unit to directly supervise the sergeants, and to give sergeants a buffer between them and the unit commander to raise their concerns. Moreover, as noted elsewhere, having only one supervisor Captain at Internal Affairs to review sergeant investigations and serve as basic quality control for the work is insufficient considering the current case load. Accordingly, we recommend the Department re-assign a Major to serve as the commander of IAB.

RECOMMENDATION 38: The Department should assign a Major to oversee the Internal Affairs Bureau.

### **Case Intake and Referral**

IAB is tasked with investigating complaints against DSD personnel (made by inmates, other members of the public, or DSD staff), any alleged violations of law, or other allegations of misconduct, committed either on or off duty. Incidents can become IA cases in several different ways. Inmate complaints go directly to IA. Likewise, the Office of Independent Monitor refers to IA all complaints it receives. Other incidents are referred for investigation by Department Chiefs who learn of alleged misconduct. For example, if there is a force incident in a jail facility and the Chief learns that the involved deputy's reported actions are inconsistent with the video recording of the event, he or she likely will refer the matter to IA.

### **Criteria for Internal Affairs Investigations**

IA is responsible for the initial screening of all complaints the Department receives, either directly or through the OIM. After an initial review, the Captain of IA determines whether a complaint

warrants a “formal” investigation conducted by his unit because it alleges misconduct that could lead to discipline and therefore must be fully investigated. “Informal” complaints are those that, even if true, do not allege a policy violation worthy of discipline. IA returns informal complaints to the facility from which they originated to be investigated by division staff. Besides these two possibilities, complaints may also be deemed “resolved” if they involved a request that already had been satisfied by the time the complaint reached IA – such as a request to see a medical professional framed as a complaint that the inmate has had to wait too long without care. Finally, complaints can be “declined” if initial review of the complaint reveals the facts alleged could not possibly be true.

Unfortunately, the Department lacks clear written guidelines on which matters IA will investigate and, as importantly, those that should be handled in other ways. The Internal Affairs Procedures manual lists those matters that IA must investigate as formal complaints: “all cases that would constitute a law violation, unnecessary/excessive force, sexual harassment, racial or ethnic intimidation, improper conduct and improper procedure or a breach of integrity or circumstances where the allegation(s) may require an in-depth investigation.”<sup>22</sup> This may seem, on its face, a comprehensive list, but it is flawed, particularly with regard to use of force cases, in its almost complete reliance on a complaint as the initiating event. For example, if an inmate files a grievance alleging that a deputy used excessive force, it is clear that the matter will be deemed a “formal” complaint and be investigated by IA. Absent an inmate’s complaint, however, IA investigates a deputy’s use of force only when DSD command staff refers a matter to the unit; most frequently when a supervisor identifies a potential discrepancy between deputy reporting and an event captured on video.

For example, in one IA case we reviewed, a deputy received a 10-day suspension for using inappropriate force after the involved inmate filed a grievance regarding the incident. The deputy had reported the use of force, the sergeant reviewing it concluded the force was

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<sup>22</sup> IAB Procedures, Revised May 2013, 301.1, Formal Complaints.

appropriate, and jail command staff had signed off on the sergeant's conclusion.<sup>23</sup> Had the inmate not filed a complaint, triggering an IA investigation, the Department would have taken no further action. As we discuss in greater detail above, a law enforcement agency must scrupulously review its own uses of force and hold its officers accountable for violating the agency's standards. It should do so on its own initiative, and not just when someone outside the agency raises a complaint. Some agencies have certain categories of force or force outcomes – hospitalizations, chokeholds, or broken bones, for example – that trigger an automatic IA review by virtue of their seriousness, even if there is no apparent misconduct involved. In the DSD, these cases might sometimes – even usually – be referred to IA. Absent clear, written criteria, however, it is impossible to know with any confidence that the right cases are being subjected to this higher level review.

RECOMMENDATION 39: DSD should develop criteria that require certain categories of force or force outcomes to trigger an automatic review by Internal Affairs.

The same is true for cases other than those involving the use of force. There are no clear guidelines for when a Chief should direct to IA a misconduct allegation that did not originate as a complaint, or what other information will be forwarded to IA. If a deputy is suspected of fraternizing or developing too close a relationship with an inmate, should that warrant a referral to IA? If a deputy is arrested in connection with an off-duty bar fight, will the Department learn about that arrest?<sup>24</sup> These are the types of questions that a

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<sup>23</sup> As we noted above, sergeants and command staff often assess uses of force and make judgments regarding its appropriateness based on incomplete and limited information.

<sup>24</sup> Department policy requires deputies to report to IA any off-duty contacts with law enforcement, but it is not clear how or if this requirement is enforced or to what degree deputies comply with the mandate.

comprehensive policy setting out the criteria for IA cases should more clearly answer.

At the same time, guidelines need to speak to the issue of which types of cases IA should not automatically handle. When the public and media scrutiny of the Department intensified in 2014, one reaction by Majors and Chiefs was to send even the most minor inmate grievances and other infractions to IA for review. Of the 25 IA investigations we originally asked to review, seven (nearly 30 percent) involved deputies who took unauthorized time off, by, for example, improper coding on a timecard, reporting late to work, or in one case, calling in sick for a day when the deputy was literally minutes shy of having a full day of leave remaining. We do not diminish the importance of an agency's need to closely regulate timekeeping issues and potential fraud, but do question the need to have these straightforward administrative matters handled by the Internal Affairs Bureau. While none of these cases was particularly time-consuming for the assigned IA investigator, they likely could have been handled more expeditiously in a less formal way. The same is true for some other cases we reviewed, such as a preventable traffic collision and the failure to complete a quarterly qualification with a Department-authorized firearm.

RECOMMENDATION 40: The Department should develop a comprehensive and detailed set of guidelines for which categories of allegations commanding officers must refer to Internal Affairs as well as which should be handled in a less formal way.

### **Informal Investigations**

For those matters deemed informal complaints and returned to a facility for investigation, IA nonetheless will create case numbers and will track their progress and outcome. After the complaint has been investigated and reviewed, the division is required to return the case

to IA, where the Captain will review the facility's handling of the matter and determine whether it has been investigated properly. If not, he will again return the case with instructions for further work. Otherwise, he will send the case on to the OIM to begin the process of review and disposition.

Having a mechanism for returning some matters to be handled at the facility or division level is important to the efficient functioning of the organization. For reasons that go beyond the unnecessary drain of IA resources, not every complaint or suspicion of wrongdoing needs to be investigated by Internal Affairs, either because it is a minor or procedural violation, or an administrative issue best addressed outside of the disciplinary system. How well the Department differentiates between those matters that should be handled by IA and what should be returned as an informal complaint is a judgment that is difficult to make because, again, we were frustrated here by the Department's lack of reliable data.

Nonetheless, the requirement that informal complaints be completed quickly and returned to IA is an important check of the division-level investigation and review process, to ensure that facilities are taking seriously their responsibility to investigate complaints in a timely and thorough way. Likewise, it is critical that the OIM monitors informal complaints sufficiently to provide confidence that IA is appropriately categorizing complaints as "informal" and that division leaders are handling them properly.

We found two main issues of concern in our review of the process for handling informal complaints: 1) There is a lack of standards and training for those at the facilities designated to handle informal complaints; and 2) Internal Affairs needs a formal system for tracking overdue complaints and following up with facilities that have fallen short.

Generally, it is a sergeant's role to conduct facility-level investigations of informal complaints. Because deputies are not called upon to conduct investigations in the normal course of their duties (as we discuss more fully above), there is no base of investigative experience or expertise among these sergeants. While an informal complaint, by

its nature, should be simple and straightforward, it takes some basic skills to thoroughly examine. In addition, because these inquiries may divulge potential misconduct committed by fellow Department members, they have to be handled with a sensitivity that may not come automatically to every first level supervisor. Sergeants should be trained both to provide them with the necessary background knowledge they need and to allow IA and the division to feel confident that these cases are being assigned to the right people.

RECOMMENDATION 41: Internal Affairs should coordinate training sessions with division staff that will be responsible for investigating and reviewing informal complaints to make clear the Department's expectations and to instruct on the basic skills necessary to meet those expectations. Only personnel who have completed this training should be eligible to complete informal investigations.

In 2014, Internal Affairs discovered over 100 informal complaints that had been languishing at the division level well past the 180-day deadline set by Department policy, and then learned that these investigations had been incorrectly assigned, so that some did not even know they were supposed to be working on them and they were essentially lost in the system. While the Department is working to remedy this particular situation, a systemic fix is required to prevent a recurrence. IA should develop and regularly monitor a tracking system for informal investigations so that it knows to whom a particular complaint has been assigned and when it is due to be completed and returned to IA.

RECOMMENDATION 42: IA should create and maintain a system for tracking informal complaints, to include information about where the case is assigned and an alert when cases become overdue. It should be clear who at IA is responsible for maintaining this system and following up on delinquencies.

## **Diverting Cases from Internal Affairs**

Many of the IA cases we reviewed involved relatively low-level offenses, such as traffic collisions and unauthorized leave. Others involved disputes between co-workers. Some involved offenses that, while serious, were undisputedly committed. The Department should consider alternative ways to handle each of these three types of cases.

The Department currently gives personnel involved in workplace disputes the option of resolving the matter through a County-supported mediation program. The program is voluntary, and both sides must agree to mediate. When it works correctly, and everyone involved makes an honest effort to address the conflict, mediation can be a better tool for resolving workplace disputes involving personality conflicts or misunderstandings caused by poor communication than the IA investigation and disciplinary process. Unfortunately, while we do not have any reliable statistics, it was reported to us anecdotally that deputies confronting these types of workplace disputes seldom use the County's mediation program. The Department clearly cannot force its personnel into mediation, but should examine ways to more effectively encourage people to participate. Diverting these cases not only would conserve IA's resources but also would facilitate communication between distressed colleagues and ideally improve working environments. To the extent these workplace equity cases do need to be fully investigated, IA is currently working with the Office of Human Resources to have the investigations completed by an individual who specializes in such interpersonal employee issues.

**RECOMMENDATION 43:** The Department should develop ways to encourage its personnel to choose to utilize the County-supported mediation program to resolve complaints involving workplace disputes.

The Department should explore alternatives for handling other types of cases currently being routed to IA as well. The numerous unauthorized leave cases we reviewed are the clearest example of low-

level cases that could be handled outside of the regular investigation and discipline process. The proof in those cases is straightforward and generally beyond dispute. Discipline may very well be warranted but need not take an investigation routed through a multi-step disciplinary process to impose. Rather, these cases potentially could be resolved through an agreement reached with the employee prior to commencing an investigation.

Other agencies we have worked with have effectively used pre-investigative resolutions in some very straightforward minor misconduct cases. The key to their success is in ensuring that potentially significant transgressions are not inappropriately handled through this process and that there is consistency among outcomes in harmony with the Department's disciplinary matrix. Deputies with similar disciplinary histories who call in sick so that they can go skiing should receive the same punishment whether they are assigned to the Downtown Detention Center or work at the Court. Therefore, the decision about which kinds of cases could qualify for this treatment should be reduced to writing and developed after input from the OIM and the Conduct Review Office (CRO). Moreover, the decision about whether to offer a pre-investigative resolution should be reached only after people who have an eye on the entire system – the OIM and the CRO, for example – have thoroughly reviewed it.

Other potentially more significant cases could likewise be resolved through a pre-investigative disposition mechanism if the facts are certain and the employee has indicated acceptance of responsibility. In one case we reviewed, for example, a deputy left her post to assist another deputy, leaving an inmate unattended. The incident was clearly captured on video and the deputy freely admitted her error, expressing remorse and acknowledging her mistake at the same time she offered a plausible explanation for her actions. She was interviewed by IA, as were other deputies tangentially involved. IA prepared a complete investigative packet, and the case went to a pre-disciplinary meeting and, ultimately, to the imposition of suspension days by the Executive Director of Safety just over eight months after the incident. While it is impossible to know for certain, the acceptance of responsibility the deputy displayed during her interview

suggests that she would have been amenable to quickly putting the whole incident behind her in the days after it occurred by consenting to a suspension rather than all involved having to go through a lengthy and time consuming process to reach the same outcome.

Our recommendation regarding a pre-investigative resolution mechanism is not simply an effort to divert work from Internal Affairs, though it may have that ameliorative result. Rather, our experience tells us that the most effective discipline comes very soon after the conduct at issue, and is tailored to the offending deputy and his or her offense. The standard discipline process generally has no alternatives beyond verbal or written reprimands, suspension days, or termination. In negotiating an agreement, however, the Department has other options. For example, a deputy who is rude to a visitor coming to see a loved one at the jail could be asked to deliver an apology to the aggrieved visitor, an exercise that is more likely to be meaningful to both the deputy and the visitor than would be a suspension day. Or a deputy who fails to perform required security checks in the jail could be required to deliver a briefing to fellow deputies on the importance of making all the required rounds.

Such a pre-investigative disposition mechanism needs to be implemented carefully and thoughtfully, with sufficient checks and balances built into the process to prevent favoritism, inconsistency, and the possibility that cases are resolved too hastily and without a full understanding of all the underlying facts. Certain categories of offenses – use of force and dishonesty, for example – should not be eligible for pre-investigative disposition. In the DSD, the structure for these checks and balances already exists in the OIM and the CRO. Requiring these entities to sign off on any proposed resolution before it is formally offered to the employee will do much to ensure the integrity of the system.

RECOMMENDATION 44: The Department should develop a streamlined mechanism for resolving straightforward cases with undisputed facts.

## Referral Process

As with the need for clarity as to *what* should go to IA, there is also a need for the Department to more clearly state *how* it should get there. Complaints forwarded from the OIM and inmate grievances have their own paper trail, but cases referred from the division are generally sent via phone call or email. Many agencies have some type of “Request of Internal Affairs Investigation” form containing some minimal amount of information the referring party must provide to IA in order to begin an investigation.<sup>25</sup> This requirement has several benefits. It gives IA a concrete start to its investigation and forces the facility or division to gather and document some basic facts and background information. It also provides a mechanism by which the IA Captain can better evaluate whether the matter belongs at IA or would more appropriately be handled at the division level or through some diversionary process.

RECOMMENDATION 45: The Department should develop a formal process for division staff to request Internal Affairs to initiate an investigation that should require the division to provide some basic background information regarding the referral.

## Investigations

### Timeliness

As noted above, unlike many jurisdictions, Denver does not have a statute setting a limitations period on disciplinary actions against peace officers. As a result, there is no external deadline on when an investigation must be completed or discipline imposed. Nonetheless,

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<sup>25</sup> For example, in a force case we reviewed, it was only at the end of the process when OIM was reviewing the case and at their urging when the initial deputy reports of the incident were collected and added to the investigation. That type of information should be provided to IA investigators at the outset of an investigation.

the Department's policy recognizes the importance of completing timely investigations, both for the integrity of the disciplinary process and the well being of the employee who should not have the threat of suspension or termination hanging over his or her head for an extended time. The IAB Procedures Manual requires all complaint investigations to be completed within 180 days. According to the Independent Monitor's 2014 and 2013 Annual Reports, the Department is adhering to this mandate, on average, with the median case processing time in 2014 reported to be 145 days, up from 78 days in 2013. The averages may indicate compliance, but anecdotally, we heard about cases languishing months and years with no work being done toward completion as investigators got overburdened and fell behind on their cases. For example, one case had been open for 30 months, and the subject had not even been made aware of the allegations until 18 months after it had been opened.

These sorts of delays undermine the purpose of a disciplinary system – to maintain the integrity of the agency while holding people accountable for their actions. They likewise erode the public's trust in the Department's ability to police itself and weaken deputies' confidence in their leaders. When an agency imposes discipline years after an incident, it leaves one to question how seriously the agency takes the misconduct and diminishes the importance of the disciplinary action, in that the lessons that should be learned from the incident have long since faded in memories.

Currently, IA is operating at a much more efficient level than it had been. It is fully staffed and is largely caught up on its caseload. In contrast and in marked improvement to the 180 day guideline in the IAB Procedures Manual, new internal guidelines establish a triage system where the most straightforward cases are to be completed within 30 days, investigators have 60 days to complete a somewhat more complicated case, and the most complex cases are to be done in 90 days. We are hopeful that the Bureau will maintain its commitment to these internal deadlines, and that the Department will continue to provide the resources it needs to do so. As we discuss further below, one effective way that DSD can hold its own feet to the fire regarding

this commitment is to regularly report to the public on its case completion rate.

### **Investigative Reports**

Many of the investigative reports we reviewed were inconsistent, disorganized, and lacked some basic information we expect to see in a comprehensive report, such as photographs and summaries written by the investigator. The Interim Director noted the same deficiencies when he started work last fall, and the Bureau has recently adopted a standard format for its investigative case books. The new format will help IA produce a consistent work product that will make it easier for reviewers to evaluate the case and make determinations and findings. As importantly, it will be a quality control tool for IA staff, triggering investigators to include key information and making it easier to assess the sufficiency and thoroughness of the content.

The evidence developed in the cases we reviewed was generally sufficient to answer the basic question posed by the complaint – whether the allegations can be sustained. We nonetheless found numerous examples where the investigations could have been more thorough. In some cases, we found that additional or more probing interview questions would have made the investigation more complete, better able to support the ultimate finding, and easier to defend on appeal. In others, we found that investigations could have been more broadly scoped, to address not just the narrow question presented by the allegation but also the peripheral issues that can sometimes have great importance. For example, in one use of force case we reviewed, the investigation and the review by the CRO focused almost exclusively on the deputy's actions at the time he used force. Our review of the video and documentation, however, raised significant questions about why the deputy ever put himself in the position to confront the inmate. A more thorough interview of the deputy would have addressed these questions.

### **Internal Review Process and Case Flow**

Establishing a standard reporting format will bring consistency and hopefully will eliminate some of the notable missing pieces from

investigations. With additional resources to IA and the change in staffing model discussed below, it is fair to anticipate that the quality of investigations will improve along with the timeliness of their completion. We also learned of a new peer review process, where non-involved investigators review the completed file to ensure the report meets the new investigative protocol requirements. Nonetheless, to address questions regarding thoroughness, objectivity, and scoping of investigations, the Bureau should consider staffing IA in a way that will allow substantive review of investigators' work by a higher ranking officer who can address these issues in an authoritative way with the investigator. Currently, all investigations are routed through the Captain, who is also the commander of the Bureau, responsible for personnel and numerous other issues. While he no doubt reviews each investigative case book that crosses his desk, it may be unrealistic to expect him to critically review each one before it is completed and sent on to the OIM. At other agencies we have reviewed, this work is typically done by a lieutenant, a rank missing from the DSD hierarchy. Until last year, the Internal Affairs Bureau was headed by a Major. The Department took that position from IA last year and has not replaced it, causing a significant dearth of command level supervision. Replacing the Major position that was taken from IA to help review cases could be a solution to this case review deficit.

Last fall, prior to significant changes to IA made when the Interim Director began work, the OIM returned a high percentage of DSD cases to IAB for further work or investigation. More importantly, the DSD investigations were often returned because the most basic of information was not included in the investigation, such as prior deputy reports or photographs. While it is certainly appropriate for the Monitor to return cases that are not complete or comprehensive, a high rate of incomplete cases signals a problem within DSD. IA staff should be catching the basic types of deficiencies identified by the OIM prior to the case being released for review. This would result in greater efficiency and free up the OIM to review the investigations' more subtle issues.

RECOMMENDATION 46: DSD should consider enhancing the supervisory structure at IAB to assist the Captain in ensuring a meaningful, critical review of investigative case books by someone at a higher rank than the investigating sergeants.

### **Video Review**

Many incidents occurring at the DDC are captured on video. IA investigators have access to these recordings at their offices, located miles away from the downtown facility, and can view and download video for use in their investigations without having to leave the building. Currently, there are fewer cameras at the County Jail, so incidents at that facility are less likely to be recorded. When they are, however, the IA investigator assigned to the case must travel to the jail and sit, often for hours, in the facility's main control center to view and download video, often from multiple cameras. This is not just inconvenient and an inefficient use of a sergeant's time, it potentially compromises sensitive investigations because the control center necessarily remains staffed by civilian employees throughout the time the IA investigator is reviewing the video. The situation is worse when an incident allegedly occurs in the kitchen areas. Then the investigator is required to sit in the kitchen steward's office to view and download video from a computer located there.

We understand that reconfiguring camera and computer systems is seldom a simple or inexpensive venture. Nonetheless, we recommend that the Department find a way to remedy this situation to provide investigators with easier, more secure access to video recorded at the County Jail, particularly as the Department expands its video capability at that facility.

RECOMMENDATION 47: The DSD should ensure that IA investigators have easier, more secure access to video recorded at the County Jail, particularly when it expands video capability at that facility.

Because many incidents are captured on video, IA investigators frequently refer to video recordings during the course of their interviews with subject or witness deputies or other staff. In the cases we reviewed, investigators often used the video effectively, to clarify deputies' written reports, further illuminate or add details to a deputy's recollection of an incident, or confront him or her on inconsistencies between their written or verbal account and the video evidence. However, we found little consistency in the way in which the video was introduced or how and when it was shown to interviewees.

In our work with other agencies, we have found the best practice is to question the deputy first, to get his or her purest recollection of the incident, then to read a standard statement that sets forth the agency's position on video and reminds the interviewee that the recording captures just one view of the incident that may be different from the one he or she had and that human memory functions differently than a video camera. The interviewer should then play the video in its entirety before asking any questions or providing the opportunity to view any portion of it again. Some DSD IAB investigators employ a similar practice when showing video during an interview. However, there is no written protocol governing how and when video should be introduced. The resulting inconsistency diminishes the value of the video evidence and creates uncertainty for subject and witness deputies.

RECOMMENDATION 48: IAB should implement a policy that will bring consistency to the way investigators use video during interviews. The policy should require the witness or employee to give a statement about the incident prior to viewing the video.

## **Distinguishing Between Interviews and Interrogations**

The IAB Procedures Manual distinguishes between interviews and interrogations. Interviews are defined as processes by which an investigator seeks, obtains and evaluates information given “willingly” while interrogations involve seeking to obtain information from an individual “unwilling” to provide such information. While the dictionary definition defines “interrogation” as thorough questioning, often in a more aggressive manner than the standard interview, the distinction has significant implications for IA investigators because the IAB Procedures Manual requires approval of the Bureau Commander before interviewers can employ “interrogation techniques.”

This requirement for supervisor approval apparently derived from a complaint that an IA investigator was questioning a subject employee too severely and determinedly about a matter when the subject was being evasive and not answering the questions posed to him. The subject employee complained about the investigator’s manner during the interview, and DSD leadership determined that IA investigators needed to be cabined and seek supervisor approval before they could use interrogation techniques during an interview.

This approval provision presumably comes from a legitimate concern about employee rights. However, it could easily result in a lack of rigor that pushes the dynamic too far in the other direction. The task of interviewing fellow employees is difficult enough for internal investigators without having to worry about possibly violating a policy by asking hard but important questions, or by conducting necessary follow-up when the subject employee does not directly answer the question or is otherwise being evasive.

The provision is also unnecessary. Certainly, as set out elsewhere in the Manual, investigators should be professional and courteous and should not deploy threatening, belittling, or other abusive conduct. We have seen no evidence of anything approaching such conduct in our review of IA interviews. In addition, the right to have a representative present affords subject employees additional protections from inappropriate tactics by investigators.

To his credit, when the Interim Director assumed command of IA, he advised the investigators they did not need to seek his approval to employ “interrogation techniques” on individual cases but had pre-approval to proceed on all interviews as they saw appropriate. While this approach limited the potential harm of the provision, the Interim Director has now left and future IA commanders may revert to a more literal reading. To avoid that potential, the provision should be removed from the Manual.

RECOMMENDATION 49: The requirement that investigators need Bureau commander approval before engaging in “interrogation techniques” should be removed from the IA Procedures Manual.

### **IAB “Roll Out” Functions**

The current IA Procedures Manual notes that sergeants and command staff assigned to the unit must be on call 24 hours a day, seven days a week for any necessary immediate response. As with other agencies, IA is expected to respond to critical incidents such as suicides, homicides, and force events involving hospitalization. IA supervisors informed us that they have an internal understanding of events that they should immediately respond to, but that guidance is not set out in the IA Procedures Manual. Many law enforcement agencies provide written categories of events for which IAB should be called so that there is more uniform understanding on when the watch commander should call IA and when they should respond to an event. We were informed that, in part because of a lack of understanding about when IAB should be called, there have been times when the Bureau was not informed about events that should have triggered an immediate response until hours or sometimes days after the event. In order to help avoid future misunderstandings, the categories of events should be set out with specificity in the IA Procedures Manual and

promulgated to DSD supervisors at the units who are responsible for making notification.

RECOMMENDATION 50: DSD should include in its IA Procedures Manual the types of events that IA is expected to immediately respond to and ensure that supervisors responsible for making notification to IA are aware of their responsibilities.

### **Description of Incident Prior to IA Interviews**

The IA Procedures Manual instructs investigators that DSD employees should be allowed to read the “incident description” of the matter under investigation prior to being interviewed by IA, but it is unclear what “incident description” is intended to mean. While witness and subject employees should be provided some basic information about the subject matter of the investigation, it should be a brief statement that avoids any information about the complainant’s or other witnesses’ version of the incident, a narrative of what the video of the incident depicts, or information identifying the complainant or witnesses. Providing any more than a brief description may color, taint, or allow the interviewee to either consciously or subconsciously shape his or her responses.

RECOMMENDATION 51: The IA Procedures Manual should clarify the meaning of “incident statement” and inform investigators that interviewees should be provided only with a brief description of the nature of the matter under investigation.

## **Prison Rape Elimination Act Guidelines**

The Prison Rape Elimination Act is federal legislation designed to promote practices intended to reduce the likelihood of persons in custody being subjected to sexual assault or battery. The legislation resulted in the promulgation of guidelines intended to ensure that allegations of sexual assault are timely and objectively investigated.

Over the past few years, Denver has struggled with efforts to comply with the letter and the spirit of the federal legislation. As noted elsewhere, because DSD deputies do not have the ability to investigate criminal matters, the protocol has been to call the Denver Police Department (DPD) to respond to and investigate all PREA allegations. During the course of our interviews, we heard repeatedly about the uncertainty and inconsistency associated with this referral process. Apparently, sometimes jail personnel call a DPD patrol station and a patrol officer responds to the jails to investigate the complaint. Some jail personnel call DSD Internal Affairs for guidance. More recently, jail personnel have been advised to contact DPD Internal Affairs, which has resulted in more consistency to the referral and response system. However, in part because of the wide-ranging nature of PREA allegations – from inappropriate body searches to sexually-charged offensive comments to outright sexual assault – Denver has yet to develop an effective and efficient protocol on how these allegations are best handled. The Policy and Procedure Committee recognized as much when one of their featured recommendations was to form a PREA task force to establish investigatory protocols, determine training needs, and establish curriculum. We agree that more needs to be done in this area.

RECOMMENDATION 52: DSD and outside stakeholders need to continue to meet and develop PREA protocols that are effective, efficient, and responsive to the goals of the federal legislation.

## **IAB Procedures Manual**

Internal Affairs has a Procedures Manual that is intended as a “how to” for IA investigators with regard to matters such as investigation formatting; the varying responsibilities of Bureau members, including supervisors; and how investigations are processed through the unit. Because the Manual was last updated in May 2013, many of the reforms described above, including case formatting and the new internal timelines, are not reflected in the Manual. Other provisions are also out of date such as the failure to reference the role of the Conduct Review Office in the Manual. Procedural Manuals must reflect the current procedures of any unit. When they are out of date, they create the possibility of confusion or unreliability as a Department resource. The IA Procedures Manual should be revised and updated as soon as possible. Going forward, DSD should ensure that any changes to the unit’s procedures and practices are reflected in the Manual.

RECOMMENDATION 53: DSD should revise and update its IAB Procedures Manual and ensure that future changes to the unit’s procedures and practices are incorporated in a timely manner.

## **Retaining Use of Force and Internal Affairs Investigations**

DSD current policy provides for various levels of retention for records that largely tracks Denver’s retention policy. However, at least for records involving investigations and reviews of use of force events and Internal Affairs investigations, we recommend a modification of current retention policies. When a deputy uses force, that incident should be subjected to rigorous scrutiny and potential remedial action ranging from discipline, training, and counseling. The same is true when a deputy becomes the subject of an IA investigation. Even in cases in which the ultimate finding is that the actions did not indicate a violation of policy, the frequency and type of allegations can end up

demonstrating a pattern of conduct (or not) worthy of additional intervention. If records that could be used to develop that pattern are purged, the law enforcement agency is hampered in fully identifying patterns and trends. The theory behind deputy intervention systems is that when deputies have force or discipline histories that are markedly different than similarly situated peers, some type of further study and potential action is required. If records that could help in that further inquiry are no longer available, the Department limits its ability to conduct such a study.

For that reason, many law enforcement agencies permanently retain any use of force and Internal Affairs investigations. We recommend that DSD retain such records at least during the law enforcement career of any deputy who is the subject of these internal investigations.

RECOMMENDATION 54: DSD should retain all use of force and Internal Affairs investigations indefinitely, or at least during the law enforcement career of the subject deputy.

## **Transparency**

The past year has provided DSD ample reminders of the public's interest in the operation of the jails and its concern about potential misconduct by Department members. As Internal Affairs moves forward with implementing reform, it should consider ways to provide the public with information about its process and case load. The OIM's regular reports provide a good window into Department misconduct allegations and outcomes, but the Department should consider directly communicating with the community through its own public reports. We are not suggesting the Bureau divulge details of its investigations, but more general information regarding its procedures and statistical information regarding the types of cases it handles and their outcomes. Some agencies we have reviewed, for

example, make public a quarterly discipline report providing some rudimentary case summaries for all cases closed in the prior quarter. Making this type of information available on the DSD website would help bolster the public's confidence in the Department's ability to police itself. In addition, particularly given recent concerns and media coverage regarding IA's backlogs, the Department should publicly report on the length of its internal investigations and the degree to which it is complying with its internal deadlines.

RECOMMENDATION 55: Internal Affairs should make public some type of report containing general information regarding its processes, caseload, disciplinary outcomes, and the degree to which it is complying with its internal deadlines for completing investigations in an effort to become more transparent to the public.

## **Office of Independent Monitor**

For years, the Office of the Independent Monitor has been a meaningful player in providing oversight and ensuring principled investigations and accountability for both the Police and Sheriff Departments in Denver. More recently, as a result of issues it has identified through its public reporting, the OIM has been a catalyst for the recent attention and concern surrounding the Sheriff Department. The outside and independent perspective provided by the OIM is law enforcement oversight in its best tradition. To the degree that the people of Denver believe that local governmental entities have the capacity to correct issues identified by the Monitor, the community's confidence is buttressed by the expectation that the OIM will continue to be part of any solution to the issues it has often identified.

Considering the benefits that OIM's meaningful independent oversight continues to provide to the residents of Denver, it is surprising that any have questioned the access and breadth of the Monitor's

responsibilities or attempted to interpret its authority narrowly. While the City Council should be commended for recently expanding that access and breadth, as well as allocating additional resources for it to better fulfill its mission, we recommend that OIM's responsibilities be read broadly and that its involvement be actively sought out by the law enforcement entities it is entrusted to oversee.<sup>26</sup>

It is axiomatic that in order for oversight to be effective, the monitoring entity must have unfettered access to any documents and records that it requests to review. Moreover, in addition to its case specific involvement in investigations and the disciplinary process, the Department should solicit OIM's perspective on systemic issues impacting deputy performance. When the Department reforms policies, particularly those undertaken in response to issues identified by the OIM, those tasked with making changes should seek input from the OIM. When the training unit produces videos or briefings to provide guidance on the use of force, accountability, discipline, risk management or related matters, OIM should be part of the development and review of those training materials. In short, the Department should value OIM as an institutional yet independent resource, and should proactively seek its perspective with regard to Departmental reform in these areas.

The recommendations we make here for systemic change should be considered by DSD leadership, the Department of Public Safety, the Office of the Mayor and other relevant stakeholders. To the degree that they are embraced and accepted, there will be a need for an independent entity to audit and publicly report on DSD's progress in implementing those recommendations. The OIM is well situated to perform that function.

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<sup>26</sup> As a discrete recommendation, the Policy and Procedures Committee recommended that OIM be notified whenever DSD became aware of any force incident resulting in significant bodily injury. We agree with the implementation of that Recommendation.

RECOMMENDATION 56: The OIM should be involved in any DSD systemic reforms, policy developments, and training curricula initiatives impacting on accountability, force, and deputy performance.

RECOMMENDATION 57: The OIM should be entrusted with the responsibility to audit and publicly report on the Department's compliance with those recommendations from this report that stakeholders embrace and accept, so that the public can know from an independent source the degree to which systemic change has been accomplished.

# Recommendations

## Use of Force

- 1 DSD should inculcate principles of force prevention in its culture, policy, training, and overall orientation.
- 2 DSD should demonstrate how much it values deputies' abilities to resolve confrontations without resorting to force by issuing commendable restraint citations, considering the amount of force an officer uses in assessing the officer's annual performance, recognizing those deputies as peer role models, and by highlighting those deputies' skill in briefing and training scenarios.

The Department should consider dramatically altering the way it investigates and reviews force incidents that are not referred to Internal Affairs, including the following:

- 3 DSD should develop standards for investigating all uses of force that go beyond collecting involved and witness deputies' narrative reports and meet minimal investigative standards for thoroughness and objectivity.
- 4 DSD should provide regular training to deputies on how to prepare use of force reports and to sergeants on how to review them to ensure compliance with current DSD use of force reporting policy.

- 5 DSD should consider creating a cadre of sergeants at each jail facility specifically trained to conduct force investigations and reviews.
- 6 In cases where a sergeant was involved in a use of force, directed the force, or was a witness to the force, DSD should assign the force investigation to a non-involved sergeant or a captain of the facility.
- 7 DSD should create detailed checklists setting out the Department's expectations for investigation and review of force incidents to guide investigating sergeants and supervisors at each level to ensure a uniform and thorough coverage of the fact collection and review process.
- 8 DSD should consider designing protocols whereby a force review committee reviews significant force incidents and a sampling of less significant force incidents. The force review committee should develop a written action plan for each force incident reviewed and ensure an effective feedback loop to present the results of any action plan back to the committee at a later time.
- 9 DSD should improve its force review process to ensure that not only is the incident centrally reviewed to determine whether the force used was in policy but also to examine whether there was tactical decision making that was consistent with Department policy and expectations.
- 10 At the end of the force review, officers involved in every force incident should be debriefed regarding how the Department considered the handling of the incident including the tactical decision making.
- 11 In addition to deciding whether the force was in policy, DSD should examine force incidents to determine whether there were issues of supervision, policy, or training that it should address.

- 12 DSD should use learning domains, such as training bulletins or briefings to ensure that information learned is exported back to the line officers and first level supervisors in a meaningful way.
- 13 DSD should add a preamble to its use of force policy that sets out the overarching principles and philosophy by which the use of force should be considered.
- 14 DSD should set out a more precise definition of “excessive force” in its use of force policy.
- 15 DSD should set out a more precise definition of “objectively reasonable” in its use of force policy.
- 16 DSD’s Use of Force policy should set out a distinction between “immediate force” and “controlled force.”
- 17 DSD’s force policy should expressly advise deputies of their responsibility to intervene when they observe excessive or unnecessary force by fellow deputies and are in a position to do so.
- 18 In an effort to reduce the need to resort to force, DSD policy should provide additional specific guidance to deputies and supervisors with regard to dealing with inmates who refuse to follow jail movement orders or come out of their cells.
- 19 The policy governing use of the Taser should be modified to include the recommendations of the Policies and Procedure Committee, to require a warning to inmates prior to use of the Taser when practicable, and to clarify the requirements regarding removal of Taser darts.
- 20 The Department should more rigorously enforce its existing requirements regarding the collection of data and information about Taser deployments and should regularly examine this information to determine trends among deputies or within areas of the jails.

- 21 The Department should develop a policy specifically requiring deputies to get medical assistance for inmates who have been subjected to chemical agents so that their eyes can be decontaminated immediately after stabilizing the situation and securing the inmate.
- 22 The Department should modify its policy to require sergeants to direct which deputy is to escort an inmate who has been involved in a force incident to the medical unit. Unless there are no other options, a deputy who used force should not be assigned to do the escort.
- 23 DSD should continue to work toward providing CIT training to each of its deputies assigned to a jail facility. DSD should also ensure that the CIT training coordinator has the time and ability to incorporate outside stakeholders such as mental health professionals into the CIT curriculum and training development. When considering deputy work assignments, DSD should make a concerted effort toward assigning deputies who have excelled in CIT training to areas where they are most likely to encounter inmates with a history of mental illness.
- 24 The Department should consider ways to allow more regular ongoing training on force tactics targeted to the jail setting, including the possibility of providing training at the jail facilities.
- 25 The Department should increase the profile of its training unit to allow training staff access to force reports and any force data or analysis the Department generates as well as to encourage its participation in the review of force incidents.
- 26 DSD should devise a remedy to ensure that its aggregate force data is reliable.
- 27 DSD and those responsible for resource allocation should devote sufficient resources to support a robust data analysis and internal auditing function.

- 28 Prior to launching a deputy force tracking program, DSD should ensure the force data is reliable, that there is an accounting for jail assignment in the analysis, and that the Department is committed to devising a non-punitive remedial action plan that is tailored to address concerning deputy performance.
- 29 The Department's internal auditing function should regularly review the Department's compliance with the new video downloading and retention policy.
- 30 Sergeants should be afforded the opportunity to view video evidence so they can adequately conduct an initial force investigation and review.
- 31 The Department should develop protocols that would allow its force experts to use video of actual force incidents as teaching tools.
- 32 DSD should use its website and other social media to provide employees, stakeholders, and the public at large with more information about the number and type of force events occurring in the jails, the number and nature of internal investigations, and systemic analysis of this data.

## Internal Affairs

- 33 The City/County should maintain its commitment to staffing Internal Affairs, at least in part, with senior investigators hired from outside the Department to bring necessary investigative expertise to the Bureau and to help insulate investigators from internal pressures.
- 34 The Department should regularize the application and selection process for IA investigators so that the process is more transparent.
- 35 The Department should develop a set of guidelines stating the general qualities necessary to be an IA investigator as well as those traits that would disqualify a sergeant from assignment to IA.

- 36 The Department should give deference to the IA unit commander to choose for IA assignment the most capable sergeants within DSD.
- 37 The Department should develop a written policy setting forth a minimum amount of training a new IA investigator must receive at the beginning of his or her assignment. This training should include instruction more closely tailored and relevant to the unique functions of Internal Affairs.
- 38 The Department should assign a Major to oversee the Internal Affairs Bureau.
- 39 DSD should develop criteria that require certain categories of force or force outcomes to trigger an automatic review by Internal Affairs.
- 40 The Department should develop a comprehensive and detailed set of guidelines for which categories of allegations commanding officers must refer to Internal Affairs as well as which should be handled in a less formal way.
- 41 Internal Affairs should coordinate training sessions with division staff that will be responsible for investigating and reviewing informal complaints to make clear the Department's expectations and to instruct on the basic skills necessary to meet those expectations. Only personnel who have completed this training should be eligible to complete informal investigations.
- 42 IA should create and maintain a system for tracking informal complaints, to include information about where the case is assigned and an alert when cases become overdue. It should be clear who at IA is responsible for maintaining this system and following up on delinquencies.
- 43 The Department should develop ways to encourage its personnel to choose to utilize the County-supported mediation program to resolve complaints involving workplace disputes.
- 44 The Department should develop a streamlined mechanism for resolving straightforward cases with undisputed facts.

- 45 The Department should develop a formal process for division staff to request Internal Affairs to initiate an investigation that should require the division to provide some basic background information regarding the referral.
- 46 DSD should consider enhancing the supervisory structure at IAB to assist the Captain in ensuring a meaningful, critical review of investigative case books by someone at a higher rank than the investigating sergeants.
- 47 DSD should ensure that IA investigators have easier, more secure access to video recorded at the County Jail, particularly when it expands video capability at that facility.
- 48 IAB should implement a policy that will bring consistency to the way investigators use video during interviews. The policy should require the witness or employee to give a statement about the incident prior to viewing the video.
- 49 The requirement that investigators need Bureau commander approval before engaging in “interrogation techniques” should be removed from the IA Procedures Manual.
- 50 DSD should include in its IA Procedures Manual the types of events that IA is expected to immediately respond to and ensure that supervisors responsible for making notification to IA are aware of their responsibilities.
- 51 The IA Procedures Manual should clarify the meaning of “incident statement” and inform investigators that interviewees should be provided only with a brief description of the nature of the matter under investigation.
- 52 DSD and outside stakeholders need to continue to meet and develop PREA protocols that are effective, efficient, and responsive to the goals of the federal legislation.

- 53 DSD should revise and update its IAB Procedures Manual and ensure that future changes to the unit's procedures and practices are incorporated in a timely manner.
- 54 DSD should retain all use of force and Internal Affairs investigations indefinitely, or at least during the law enforcement career of the subject deputy.
- 55 Internal Affairs should make public some type of report containing general information regarding its processes, caseload, disciplinary outcomes, and the degree to which it is complying with its internal deadlines for completing investigations in an effort to become more transparent to the public.
- 56 The OIM should be involved in any DSD systemic reforms, policy developments, and training curricula initiatives impacting on accountability, force, and deputy performance.
- 57 The OIM should be entrusted with the responsibility to audit and publicly report on the Department's compliance with those recommendations from this report that stakeholders embrace and accept, so that the public can know from an independent source the degree to which systemic change has been accomplished.

# Appendix

## Sample Forms:

- Supervisor's Report on Use of Force
- Watch Commander's Use of Force Review and Incident Analysis Memo
- Unit Commander's Use of Force Review and Incident Analysis Memo
- Commander's Use of Force Review and Incident Analysis



# Supervisor's Report on Use of Force

000-00000-0000-000

## INCIDENT OVERVIEW

### SCENE DESCRIPTION/LEGAL STANDING

Click here to enter text.

### THREAT, PERCEIVED THREAT, OR SITUATION LEADING TO USE OF FORCE

(Check all that apply)

- Medical order
- Court order
- Passive resistance (refusal to comply)
- Active resistance (verbal threats/physical resistance)
- Assaultive behavior toward law enforcement or custody personnel
- Assaultive behavior with threat of serious bodily injury/death toward law enforcement or custody personnel
- Assaultive behavior toward others
- Assaultive behavior with threat of serious bodily injury/death toward others
- Other: Click here to enter text.

Describe the threat, perceived threat, or situation as reported by personnel:

Click here to enter text.

### RESPONSE BY PERSONNEL TO SUSPECT'S ACTIONS

(Check all that apply)

- Chemical Agent
- Pepperball
- Personal Weapon(s)
- Taser Application
- Control Techniques
- Takedown/Team Takedown
- Impact Weapon (Baton/Sap)
- Stunbag/Arwen/40MM
- Carotid Restraint
- K-9
- Firearm (no hit)
- Other: Click here to enter text.

Describe the type and amount of force applied and by whom:

Click here to enter text.

Was force used on a suspect in mechanical restraints? (if yes, check appropriate type)

- No
- Handcuffs
- Hobble Restraint
- Safety Chair
- Fixed Object
- Waist Chain
- TARP
- Wheelchair/Gurney
- Other: Click here to enter text.

## FORCE MITIGATION and PREVENTION EFFORTS

Click here to enter text.

## REPORTED USE OF FORCE BY INVOLVED and WITNESS EMPLOYEE(S)

**Supervisor's Report on Use of Force**  
**000-00000-0000-000**

**Were force reporting procedures adhered to?**

- Yes**
- No (If no, explain)**

Click here to enter text.

**Did all involved employees and witness employees complete a written report prior to viewing any video?**

- Yes**
- No (If no, explain)**

Click here to enter text.

**Were there any inconsistencies, conflicts, or issues in documentation (including video) requiring clarification?**

- No**
- Yes (If yes, explain)**

Click here to enter text.

**Was the video admonishment given prior to viewing any video?**

- Yes**
- N/A – video not reviewed**
- No (If no, explain)**

Click here to enter text.

**NOTIFICATION PROCEDURES**

**Were required notifications made to IAB (e.g. met criteria, timely, etc.)?**

- Yes**
- N/A**
- No (If no, explain)**

Click here to enter text.

**Were required notifications made to CFRT (e.g. met criteria, timely, etc.)?**

- Yes**
- N/A**
- No (If no, explain)**

Click here to enter text.

**WITNESS INTERVIEW(S)**

Click here to enter text.

**WATCH COMMANDER'S POST FORCE SUSPECT INTERVIEW(S)**

**Were personnel involved in the use of force present during the interview?**

- No**
- Yes (If yes, explain)**

Click here to enter text.

**Supervisor's Report on Use of Force**  
000-00000-0000-000

**Suspect(s) statement:**

Click here to enter text.

**MEDICAL REVIEW**

**Was the suspect(s) injured as a result of the use of force?**

- No**
- Yes (If yes, describe)**

Click here to enter text.

**Did the suspect(s) allege any additional injuries?**

- No**
- Yes (If yes, describe the injury and indicate whether or not documentation/medical evaluation supports the description of the injury)**

Click here to enter text.

**Did the suspect(s) receive a medical evaluation following the incident?**

- Yes**
- No (If no, explain)**

Click here to enter text.

**Was medical treatment rendered following the evaluation?**

- Yes**
- No (If no, explain)**

Click here to enter text.

**If the suspect(s) was transported to a medical facility or required further medical evaluation/treatment, was a diagnosis received?**

- Yes**
- N/A**
- No (If no, explain)**

Click here to enter text.

**Were all of the suspect's injuries or alleged injuries documented by medical personnel during the medical evaluation?**

- Yes**
- N/A**
- No (If no, explain)**

Click here to enter text.

**After consulting with medical personnel, did the injuries (including discomfort from chemical agents) sustained by the suspect(s) appear to be consistent with the reported force?**

- Yes**
- N/A**
- No (If no, explain)**

Click here to enter text.

**Did the suspect(s) have any known or self-identified pre-existing injuries or conditions?**

- No**
- Unknown**
- Yes (If yes, describe and indicate if documentation exists)**

Click here to enter text.

**Supervisor's Report on Use of Force**  
000-00000-0000-000

**Were the injuries to involved employees consistent with the reported force?**

- Yes**
- N/A**
- No (If no, explain)**

[Click here to enter text.](#)

**If any injuries to involved employees and/or the suspect(s) were not believed to be caused by the force, did the force investigation identify the possible or probable cause?**

- No – unable to determine cause**
- N/A**
- Yes (If yes, explain and indicate if documentation exists)**

[Click here to enter text.](#)

**TRAINING/TACTICS/EQUIPMENT REVIEW**

**FORCE OPTIONS**

**Were other force options considered?**

[Click here to enter text.](#)

**Was there a reassessment during the application of force to determine if the type and amount of force was having the desired effect on the suspect's actions?**

[Click here to enter text.](#)

**List any training and/or tactical recommendations and actions taken.**

[Click here to enter text.](#)

**EQUIPMENT ISSUES IDENTIFIED**

**(Safety Chair, Hobble, Special Weapons, etc.)**

**If weapons or other equipment were used, were they used properly and did they function as designed?**

- Yes**
- N/A**
- No (If no, explain)**

[Click here to enter text.](#)

**Was the equipment approved by the Department?**

- Yes**
- N/A**
- No (If no, explain)**

[Click here to enter text.](#)

**Were personnel trained and qualified to use the equipment?**

- Yes**
- N/A**

**Supervisor's Report on Use of Force**  
**000-00000-0000-000**

**No (If no, explain)**

[Click here to enter text.](#)

**List any equipment recommendations and actions taken.**

[Click here to enter text.](#)

**DEBRIEFING**

**Was an incident debriefing conducted?**

**Yes (Indicate what was discussed, recommendations made, and/or actions taken if any)**

**No (If no, explain)**

[Click here to enter text.](#)

**OTHER TOPICS / DISCUSSION ITEMS**

[Click here to enter text.](#)

**CASE STATUS**

**Was a case submitted to the District Attorney for filing consideration?**

**Yes** **Case#** [Click here to enter text.](#) **Charge(s):** [Click here to enter text.](#)

**No (If no, explain)**

[Click here to enter text.](#)



**Watch Commander's**  
**Use of Force Review and Incident Analysis**

**Incident Date/Time:** Enter text.  
**URN#:** Enter text.

**Facility:** Enter text.  
**REF#:** Enter text.

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During my review of this incident, I have read all written reports and viewed all available video and audio recordings (including facility CCTV, handheld camera footage of the incident, interviews, and photographs) that document any aspect of this force incident. The scope of my review also included the following:

1. **Was the initial contact within the scope of the Department member's duties and responsibilities? (Consider legal standing, Dept. members assignment, activity preceding incident, etc.)**  
 **Yes**  
 **No (If no, explain)**  
Click here to enter text.
  
2. **Was the perception of the threat reasonable?**  
 **Yes (Explain)**  
 **No (Explain)**  
 **N/A (Explain)**  
Click here to enter text.
  
3. **Did the application of force fall within the Situational Use of Force Options chart?**  
 **Yes (Indicate Force Options category)**  
 **No (If no, explain)**  
Click here to enter text.
  
4. **Were there pre-force efforts to de-escalate the situation and prevent the use of force?**  
 **Yes**  
 **No (If no, explain)**  
Click here to enter text.
  
5. **If the force was directed, was the supervisor's decision to use force appropriate and reasonable for the situation?**  
 **Yes**  
 **N/A**  
 **No (If no, explain)**  
Click here to enter text.
  
6. **Was the type and amount of force reasonable?**  
 **Yes**  
 **No (If no, explain)**  
Click here to enter text.
  
7. **Was a supervisor notified of the use of force as required by Department policy?**  
 **Yes**  
 **No (If no, explain)**  
Click here to enter text.

8. **Did a supervisor use force?**

- No**
- Yes (If yes, answer 8a and 8b)**

8a. **Was the supervisor's direct involvement appropriate?**

- Yes (Explain)**
- No (Explain)**

[Click here to enter text.](#)

8b. **Was the supervisor's use of force instrumental in ending the force?**

- Yes (Explain)**
- No (Explain)**

[Click here to enter text.](#)

9. **Were there any discrepancies identified in the reporting or documentation that were *not* addressed during the Supervisor's Report on Use of Force (SH-R-438P)?**

- No**
- Yes (If yes, explain)**

[Click here to enter text.](#)

10. **Were all known witnesses identified?**

- Yes**
- No (If no, explain)**

[Click here to enter text.](#)

11. **Were all identified witnesses interviewed and their statements documented in the Supervisor's Report on Use of Force (SH-R-438P)?**

- Yes**
- No (If no, explain)**

[Click here to enter text.](#)

12. **Was the suspect(s) interviewed and their statement(s) documented in the Supervisor's Report on Use of Force (SH-R-438P)?**

- Yes**
- No (If no, explain)**

[Click here to enter text.](#)

13. **Were the suspect and witness statements consistent with the reported use of force?**

- Yes**
- No (If no, explain)**

[Click here to enter text.](#)

14. **Were there any allegations of misconduct?**

- No**
- Yes (Explain and indicate if further investigation is required)**

[Click here to enter text.](#)

15. **Were there injuries to department members?**

**Watch Commander's Use of Force Review and Incident Analysis – Cont.**

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- No**
- Yes (If yes, answer 15a and 15b)**

**15a. Was relevant/necessary medical attention provided to Department member(s)?**

- Yes**
- No (If no, explain)**

Click here to enter text.

**15b. Was appropriate paperwork completed for employees who were injured during the use of force?**

- Yes**
- No (If no, explain)**

Click here to enter text.

**16. Were there injuries to the suspect(s)?**

- No**
- Yes (If yes, answer 16a and 16b)**

**16a. Was relevant/necessary medical attention provided to the suspect(s)?**

- Yes**
- No (If no, explain)**

Click here to enter text.

**16b. After reviewing the medical documentation, are the injuries sustained consistent with the force reported?**

- Yes**
- No (If no, explain)**

Click here to enter text.

**17. Were the force options or weapons effective during the incident?**

- Yes**
- No (If no, explain)**

Click here to enter text.

**18. Could officer safety, tactical communication, or de-escalation techniques been improved?**

- No**
- Yes (If yes, explain)**

Click here to enter text.

**19. Was video and/or audio recording technology used in accordance with Department policy?**

- Yes**
- No (If no, explain)**

Click here to enter text.

**20. Does the Supervisor's Report on Use of Force Report (SH-R-438P) identify any issues related to policy, training, equipment or other risk factors that require further action?**

- No**
- Yes (If yes, explain)**

Click here to enter text.

**Watch Commander's Use of Force Review and Incident Analysis – Cont.**

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21. Are there any additional policy, training, equipment or other risk factors *not* identified in the Supervisor's Report on Use of Force Report (SH-R-438P)?

- No
- Yes (If yes, explain)

Click here to enter text.

22. Assess Department member's actions throughout the force incident:

a. Were Department member's actions *prior* to the use of force in compliance with policy, procedures and training?

- Yes
- No (If no, explain)

Click here to enter text.

b. Were Department member's actions *during* the use of force in compliance with policy, procedures and training?

- Yes
- No (If no, explain)

Click here to enter text.

c. Were Department member's actions *following* the use of force in compliance with policy, procedures and training?

- Yes
- No (If no, explain)

Click here to enter text.

**Recommendations:**

Click here to enter text.

**Corrective actions taken:**

- None required
- Admin / IAB investigation
- Training
- Informal Corrective Action (PLE)
- Other:

IAB# Click here to enter text.

Click here to enter text.

**Conclusions:**

Click here to enter text.

**Reviewed by:** Enter text.

**Employee#:** Enter text.

***Watch Commander's Use of Force Review and Incident Analysis – Cont.***

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**Signature:** \_\_\_\_\_

**Date:**

Enter text.



**Unit Commander's**  
**Use of Force Review and Incident Analysis**

**Incident Date/Time:** Enter text.  
**URN#:** Enter text.

**Facility:** Enter text.  
**REF#:** Enter text.

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During my review of this incident, I examined the following:

1. **Does the Supervisor's Report on Use of Force Report (SH-R-438P) package meet expected standards for overall quality (e.g., complete, clear, concise, timeliness, discrepancies addressed, etc.)?**  
 **Yes**  
 **No (If no, explain)**  
Click here to enter text.
2. **Was all applicable documentation completed and received within the time limits established by policy?**  
 **Yes**  
 **No (if no, explain)**  
Click here to enter text.
3. **Were requests for additional information and/or clarification completed within the time limits established by policy?**  
 **Yes**  
 **No (if no, explain)**  
Click here to enter text.
4. **Were submitted reports consistent regarding the need for force and the description of force used?**  
 **Yes**  
 **No (If no, explain)**  
Click here to enter text.
5. **If the force resulted in mandatory notifications (i.e. CFRT, IAB, etc.) were they made within the time limits established by policy?**  
 **Yes**  
 **No (If no, explain)**  
Click here to enter text.
6. **Assess Department member's actions throughout the force incident:**
  - a. **Were Department member's actions *prior* to the use of force in compliance with policy, procedures and training?**

- Yes**
- No (If no, explain)**  
Click here to enter text.

**b. Were Department member's actions *during* the use of force in compliance with policy, procedures and training?**

- Yes**
- No (If no, explain)**  
Click here to enter text.

**c. Were Department member's actions *following* the use of force in compliance with policy, procedures and training?**

- Yes**
- No (If no, explain)**  
Click here to enter text.

**7. Did conduct by Department members warrant an administrative investigation or further inquiry?**

- No**
- Yes (If yes, explain)**

Click here to enter text.

**8. Based on the information received, I concur with the Watch Commander's Review.**

- Yes**
- No (If no, explain)**

Click here to enter text.

**9. Does it appear that any follow-up action is necessary to correct policy, procedure or training violations?**

- No**
- Yes (If yes, describe the actions taken by you to correct (i.e. CAP, Unit Order, etc.) the apparent policy, procedural or training violations in the Recommendations or corrective actions taken section below).**

**10. Should this case be referred to CFRC?**

- No**
- Yes (If yes, explain)**

Click here to enter text.

**11. Is there potential litigation or a risk management issue identified with this case?**

- No**
- Yes (If yes, explain and notify Risk Management Bureau)**

Click here to enter text.

**Recommendations or corrective actions taken:**

Click here to enter text.

**Conclusions:**

Click here to enter text.

**Reviewed by:** Enter text.

**Employee#:** Enter text.

**Signature:** \_\_\_\_\_

**Date:** Enter text.



# COMMANDER'S USE OF FORCE REVIEW AND INCIDENT ANALYSIS

**Incident Date/Time:** Enter text.  
**URN#:** Enter text.

**Facility:** Enter text.  
**REF#:** Enter text.

**PRE-INCIDENT TACTICS OR BEHAVIORS:** Consider the factors that impacted or gave rise to the need to use force.

1. Did the employee(s) actions give rise to or contribute to the need to use force?  
 No  
 Yes (If yes, explain)  
Click here to enter text.
2. Is there anything the employee could have or should have done that may have de-escalated or mitigated the need to use of force?  
 No  
 Yes (If yes, explain)  
Click here to enter text.
3. Were there any actions that others present may have taken to mitigate the need to use force?  
 No  
 Yes (If yes, explain)  
Click here to enter text.
4. Was the threat presented by the subject reasonably perceived by the employee(s)?  
 Yes  
 No (If no, explain)  
Click here to enter text.

## **ACTUAL APPLICATION OF FORCE:**

5. Was the amount or type of force used necessary, reasonable and consistent with the perceived threat?  
 Yes  
 No (If no, explain)  
Click here to enter text.
6. Were any actions taken to temper the force response?  
 Yes (explain)  
 No (explain)  
Click here to enter text.
7. Did the use of force stop when the inmate was controlled and the threat was neutralized?  
 Yes  
 No (If no, explain)  
Click here to enter text.

8. Were any and all resulting injuries consistent with the reported force?  
 Yes  
 No (If no, explain)  
Click here to enter text.

**REVIEW OF THE FORCE INVESTIGATION:**

9. Was the investigation conducted thorough and complete?  
 Yes  
 No (If no, explain)  
Click here to enter text.
10. Are there any policy or procedure issues that need to be addressed?  
 No  
 Yes (If yes, explain)  
Click here to enter text.
11. Are there any equipment or training issues that need to be addressed?  
 No  
 Yes (If yes, explain)  
Click here to enter text.
12. Have any identified follow-up actions been completed?  
 No (explain)  
 Yes (explain)  
Click here to enter text.
13. Are there any unresolved questions or outstanding issues?  
 No  
 Yes (If yes, explain)  
Click here to enter text.

- A *Corrective Action Plan* was assigned and implemented for this incident.**  
Reference CAP # Click here to enter text.
- An *Administrative Investigation* was ordered and completed for this incident.**  
Reference IAB # Click here to enter text.
- Concur with CFRT findings**  
 Yes  
 No (If no, explain)  
Click here to enter text.

**Reviewed by Commander:** Enter text.

**Employee#:** Enter text.

**Signature:** \_\_\_\_\_

**Date:** Enter text.