



**DENVER**®  
THE MILE HIGH CITY

**Chapter 5**  
**MONITOR CONCERNS**  
**REGARDING DPD**  
**DRIVING UNDER THE**  
**INFLUENCE ARRESTS**

# **Arresting Off-Duty Officers for Driving Under the Influence: A Report on DPD Actions to Ensure Adequate Enforcement of DUI Laws**

## **Introduction**

Since monitoring of police discipline began in mid-2005, the Monitor has been concerned about ensuring that Denver Police Department officers do not use their police positions to obtain preferential treatment from other law enforcement officers and that those who may commit violations of policy and law relating to the consumption of alcohol and driving under the influence of alcohol are held accountable for those violations. The issue of preferential treatment has recently been dealt with by the Manager of Safety and the DPD by moving toward changes to DPD disciplinary rules that specifically prohibit off-duty officers from soliciting or demanding preferential treatment from other law enforcement officers. In addition, the Manager of Safety is moving towards restricting the ability of off-duty officers to be armed during or after the consumption of alcohol and towards updating the current disciplinary matrix to provide for presumptive termination for officers who commit a second offense of driving under the influence (or driving while ability impaired).

As part of continuing monitoring activities, the Monitor's Office identified an area of concern relating to an absence of arrests of off-duty DPD officers for driving under the influence of alcohol within the City & County of Denver, except where they had been involved in a DUI-related traffic collision. After the Monitor informed Department command staff that there was statistical evidence to believe that on-duty DPD officers may have been providing preferential treatment to off-duty officers who were driving under the influence of alcohol, command staff agreed to take the following actions:

1. The Patrol Division will prepare a Departmental Directive that will require any patrol officer who stops an off-duty police officer who exhibits any sign of potential alcohol intoxication to immediately call a supervisor to the scene. The supervisor will be required to notify the District Commander, in writing, of the results of that call-out, whether or not an arrest is made, and, if no arrest is made, the justification for that decision. All documentation of the call-out will be forwarded to the Internal Affairs Bureau for documentation and monitoring by the Monitor's Office.
2. The Patrol Division will include specific training for all Patrol Sergeants in its curriculum for ongoing, in-service training for supervisors, which will highlight the issues raised in this report as well as other ethical issues relating to the preferential treatment of persons based on their professional affiliation.

## Historical Data Suggests that Off-Duty DPD Officers May Not Have Been Arrested in Denver for Driving Under the Influence Unless There Has Been a Traffic Collision

The Monitor has noticed that since monitoring began in 2005, no DPD officer has been arrested for DUI by another DPD officer without having first been involved in a traffic collision (see Table 5.1).<sup>1</sup> Of the five officers who have been arrested in Denver for DUI since 2005, all had been involved in DUI-related traffic collisions. During the same time period, however, ten DPD officers have been arrested for DUI in other jurisdictions, with only two of those arrests ensuing from a traffic collision.

**Table 5.1: Comparing DUI Arrests of DPD Officers Involving a Traffic Collision to DUI Arrests of DPD Officers with No Traffic Collision**

**January 1, 2005 through June 17, 2011**

DUI Arrest Type	DPD Officer Arrests in Denver	DPD Officer Arrests in Other Jurisdictions
DUI Arrests with <i>No Traffic Collision</i>	0	8
DUI Arrests with <i>Traffic Collision</i>	5	2
<b>Total</b>	5	10
Ratio of No Collision DUI Arrests to Collision DUI Arrests	0	4:1

These figures differ from DUI arrest patterns for non-DPD community members in Denver. According to the Denver Police Department's Data Analysis Unit, the number of community members arrested for DUI (no collision) in Denver outweighs the number of community member arrests for DUI-related collisions by a ratio of roughly 3.3 to 1 (see Table 5.2).<sup>2</sup> That is to say, for about every three community member DUI arrests in Denver, there is one community member DUI arrest that involves a traffic collision.<sup>3</sup> It is interesting to note that roughly the same ratio of DUI arrests has been observed for off-duty DPD officers arrested in jurisdictions outside of Denver. Specifically, there has been a 4 to 1 ratio of DUI traffic arrests to DUI arrests ensuing from collisions involving off-duty DPD officers in other jurisdictions.

<sup>1</sup> After reviewing the Internal Affairs database going back to 2000, the Monitor was able to identify only one arrest of an off-duty DPD officer (which took place in December 2000), for DUI without a DUI-related collision, in the City and County of Denver.

<sup>2</sup> The City of Austin, TX has identified almost identical ratios for DUI arrests of community members based on traffic stops versus traffic collisions. Kansas City, MO has a higher ratio of approximately 7 to 1 for DUI arrests as the result of a traffic stop when compared with DUI arrests as the result of a traffic collision.

<sup>3</sup> The DUI arrest figures for community members do not include DPD officers arrested for DUI.

**Table 5.2: Comparing DUI Arrests of Community Members  
Involving a Traffic Collision to DUI Arrests with No Traffic  
Collision**

**January 1, 2008 through December 31, 2010**

<b>DUI Arrest Type</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
DUI Arrests with <b><i>No Traffic Collision</i></b>	3,505	3,106	2,520
DUI Arrests with <b><i>Traffic Collision</i></b>	1,040	937	755
<b>Total</b>	<b>4,545</b>	<b>4,043</b>	<b>3,275</b>
Ratio of No Collision DUI Arrests to Collision DUI Arrests	3.4:1	3.3:1	3.3:1

If one were to assume a 3:1 ratio of DUI arrests with no collision to DUI's with a traffic collision, then one could expect roughly 15 DPD officers to have been arrested for DUI with no traffic collision in Denver between January 1, 2005 and June 17, 2011. Yet, not a single DPD officer has been arrested since monitoring began in 2005 (and likely as far back as 2000) by another DPD officer for DUI without having first been involved in a traffic collision. The absence of DPD officer DUI arrests in Denver supports the conclusion that rules need to be put in place to ensure that off-duty DPD officers do not receive preferential treatment in relation to these types of offenses.

The conduct demonstrated by the majority of DPD officers who have been arrested for DUI in other jurisdictions also tends to support the above conclusion. In eight out of the ten DUI arrests outside of Denver since 2005, the off-duty DPD officer engaged in overt actions that could reasonably be interpreted as attempts to obtain preferential treatment. For example, in three cases the off-duty DPD officer made explicit requests for preferential treatment. In four cases, the DPD officers identified themselves as police officers by showing badges or ID cards, even though they were off-duty, unarmed, and had no reason to do so. In the eighth case, the off-duty officer (who was armed) apparently provided his identification to the arresting officer shortly after providing his driver's license and theoretically before he needed to identify himself as being armed.

## **Conclusion**

Based on the above-information, the Monitor has concluded that some DPD officers expect to be treated differently than ordinary citizens during DUI-related traffic stops based on their status as police officers. Moreover, it appears reasonable to conclude that off-duty DPD officers may have, in the past, received preferential treatment by not being arrested for DUI violations when there is no related traffic collision.

Of course, it is important to note that the small number of DUI arrests of off-duty DPD officers in Denver could potentially be explained, in part, by the fact that roughly 75% of all DPD officers live outside the City & County of Denver. The residency issue, however, does not explain the non-existent ratio between DUI traffic stop arrests and DUI-related collisions inside Denver. While the

number of arrests could rationally be expected to be lower inside Denver rather than outside of Denver, the fact that there have been no DUI arrests during the course of traffic stops (apparently since 2000) when compared with DUI-related traffic collisions caused by off-duty DPD officers, leads the Monitor to conclude that on-duty DPD officers have likely given off-duty DPD officers preferential treatment during the course of DUI-related traffic stops.

Given this, the Monitor appreciates the Manager of Safety's decision to implement new disciplinary rules that will prohibit off-duty officers from soliciting preferential treatment from other law enforcement officers. Moreover, based on the willingness of DPD command staff to issue a Directive requiring supervisorial intervention into any traffic stop of an off-duty officer involving alcohol and to provide specific training to the supervisors who would respond to such calls, the Monitor is hopeful that the likelihood that DPD officers will receive preferential treatment in such cases will be significantly reduced in the future.

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