



SHERIFF DEPARTMENT OF THE
CITY AND COUNTY OF DENVER
DENVER, COLORADO

DSD Discipline Handbook: **CONDUCT PRINCIPLES AND DISCIPLINARY GUIDELINES**

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Approved by the
CITY ATTORNEY'S OFFICE
EXECUTIVE DIRECTOR OF SAFETY
SHERIFF

Policy Statement

An effective discipline system is one that is fair, rational, efficient, and transparent; reflects the mission, vision, and guiding principles of the Denver Sheriff Department; and fosters respect, trust, and confidence among all Department personnel as well as between the Department and the community it serves.

The purpose of this Discipline Handbook: Conduct Principles and Disciplinary Guidelines is to provide sworn members of the Denver Sheriff Department with notice of the principles and guidelines that shall be employed by the Department in making disciplinary decisions. This Handbook should be reviewed and considered in conjunction with revisions to Department Rules and Regulations, all other Department policies and procedures related to discipline, and the Career Service Rules. This Handbook is not intended to establish any appellate or other legal rights not granted by the Office of Human Resources (OHR) or Career Service Board, nor is it intended to create a comparative discipline system.

Denver Sheriff Department Discipline Handbook

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PREFACE

On January 7, 2009, the Manager¹ of Safety and the Director of Corrections² instituted what became known as the Denver Sheriff Department Disciplinary Advisory Group (“DAG”) process to undertake a thorough study and evaluation of the Department’s disciplinary practices and to recommend changes in those practices where needed. The goal of the process was to create a more transparent discipline system that provides Department personnel and community members with greater notice of the principles and guidelines that would be employed by the Department and the Executive Director of Safety (“EDOS”) in making disciplinary decisions and greater notice of the potential ranges of disciplinary sanctions that could be imposed for specific types of violations.

The DAG consisted of approximately 90 volunteer members who represented a cross section of sworn and civilian members of the Sheriff Department from all ranks and positions as well as other government officials and community members.

More specifically, DAG membership was drawn from the following groups/organizations, among others:

- Denver Manager of Safety Office
- Office of the Independent Monitor
- Citizen Oversight Board
- Denver City Attorney’s Office
- Denver City Council
- Denver Career Service Authority³
- Denver Office of Risk Management
- Denver County Court
- Representatives of the Denver Sheriff Department Fraternal Order of Police
- Representatives of other Denver Sheriff Department employee groups
- Command, supervisory and non-supervisory members of the Denver Sheriff Department (sworn and civilian)
- Police Administration / Criminal Justice professors from Denver area universities
- Members of the clergy
- Other interested community members
- Members of the Denver Fire Department
- Members of the Denver Police Department

Both the Manager of Safety and the Director of Corrections believed that extensive input and discussion from all points of view were essential to the success of the process and such input was continually invited and encouraged.

¹ The Office of the Manager of Safety has since been renamed the Office of the Executive Director of Safety.

² The Director of Corrections has since been retitled the Sheriff of the City and County of Denver.

³ The Career Service Authority is now known as the Office of Human Resources (OHR) and the Career Service Board.

Prior to commencing the Denver Sheriff DAG process, the Manager of Safety's Office conducted extensive research into the disciplinary practices of law enforcement agencies throughout the United States. Of particular significance was the research that indicated that the publication of written disciplinary guidelines (including the creation of a discipline matrix with a detailed classification of offenses and explicit ranges of potential penalties) within an agency led to greater uniformity in the administration of discipline and greater confidence among members of the agency and the public with regard to the fairness and effectiveness of the discipline system. During the course of the Sheriff Department DAG process, this research was discussed and the DAG recommended that a system of written guidelines and matrix-based disciplinary sanctions should be developed for the Sheriff Department.

Consequently, over a period of 18 months beginning in January of 2009, various committees and sub-committees of the DAG met on a monthly (and sometimes weekly) basis to vigorously discuss improvements to current disciplinary practices and to create a system of written disciplinary guidelines including a discipline matrix to meet the needs of the Department.

During the course of its extensive discussions, the DAG closely examined the Department's current disciplinary practices along with Career Service Rules and prior decisions of Career Service Hearing Officers and the Career Service Board. As a result of its efforts, the DAG noted the following areas of concern, among others:

- A lack of sufficient emphasis by the Department on rehabilitative programs or “re-training” in order to assist deputies in avoiding disciplinary sanctions;
- A lack of written guidelines for determining whether a violation should be sustained;
- A perception by some that discipline was based upon position, status, or “connections” within the Department;
- A lack of Department-wide acceptance of the various goals and purposes of discipline;
- A lack of written guidelines regarding the disciplinary process. There was a general perception that sanctions changed from administration to administration for no valid reason and that there was no effective method of determining the rationale for prior decisions other than the “recollection” of those who may have participated in or “heard about” a particular decision;
- A lack of effective notice to deputies or the public as to the likely discipline sanction in a given type of case;
- The perception by some deputies that the discipline system was unfair and weighted against them;
- The perception by some members of the public that the discipline system was unfair and weighted in favor of deputies;
- The need to revise certain practices of the Department's Internal Affairs Bureau; and
- The need to revise existing Rules and Regulations and to create new ones.

During the DAG process, discussions were held regarding whether a matrix-based system should be created for both sworn and civilian members of the Sheriff Department. It was concluded that, while civilian employees of the Department should certainly be held to a high standard of professionalism and accountability, it is particularly important that deputy sheriffs be held to the highest of standards because of their status as law enforcement officers and the authority and responsibilities granted to them. A number of reasons for this distinction were discussed and acknowledged by the DAG. Among them were:

- As law enforcement officers, deputy sheriffs hold a “position of trust” bestowed on them by the Department and the community. They are given discretion in carrying out their duty to maintain the care and custody of inmates. This discretion includes the authority to make arrests, restrict personal freedom, seize and control property, and use force up to and including deadly force.
- Deputy sheriffs are subject to extensive psychological testing and background investigations to ensure they are qualified to hold such a “position of trust.” They must have demonstrated characteristics that indicate the ability and willingness to perform with integrity, honesty, and good judgment; to work in stressful environments; to treat others fairly and judiciously; and to appropriately use authority and physical force. While these characteristics are important in the hiring process, it is even more critical that deputies be held to these same high standards after being hired.
- Because of the nature of their duties and responsibilities, deputy sheriffs pose a high risk for civil liability on the part of the City when they engage in misconduct.
- The community justifiably has an expectation of the highest degree of integrity and accountability on the part of its law enforcement officers.
- To be regarded as professional and deserving of the trust and authority bestowed on it, the Denver Sheriff Department understands that it must promote and maintain a culture of public accountability, individual responsibility, and maintenance of the highest standards of professionalism among its deputies.

Based upon these rationales and the areas of concern noted previously, the DAG concluded that a matrix-based system of discipline should be created for sworn personnel only.

As a result of the extensive work done by the DAG, the following outcomes were achieved:

- Creation of the Discipline Handbook: Conduct Principles and Disciplinary Guidelines to provide:
 - Written guidelines for determining whether a violation should be sustained;
 - A matrix-based system for determining disciplinary sanctions;
 - Notice to deputies and the public of the guidelines for making disciplinary decisions;
 - A system of written justifications to better determine the rationale for disciplinary recommendations and decisions;
 - Creation of a Disciplinary Advisory Group Standing Committee to monitor the effectiveness of this revised discipline system;

- An expanded discussion of the Department's Guiding Principles; and
- A list of non-disciplinary programs and training available to deputies.
- Revisions to Department Rules and Regulations
- Revisions to certain practices of the Department's Internal Affairs Bureau
- Creation of a "schedule of discipline" for Violations of RR-100.10.2 – Unauthorized Leave

Subsequent to the initial application of the DSD Discipline Handbook provisions on January 1, 2011, events occurred within the Sheriff Department that raised public concerns about deputy conduct and Departmental practices. These concerns related to issues ranging from hiring, inadequate staffing, policy development, and training, to those regarding the inappropriate use of force, deficiencies in the inmate grievance process, the timeliness and thoroughness of internal investigations, and the effectiveness of the discipline system, particularly with regard to the inappropriate use of force.

To address those concerns, the Sheriff created four task forces in April, 2014, to research and discuss the issues raised and make recommendations for improvement. One of those task forces was the Discipline Task Force (also known as the Discipline Work Group). That task force was comprised of uniformed and civilian members of the Sheriff Department, employees of the Department of Safety (including the Executive Director), other City employees, non-City employees recognized as having experience with the issues being discussed, and concerned community members.

The Discipline Task Force met approximately twenty times over a five-month period. During those meetings, the members of the Task Force discussed the history and purpose of the Discipline Handbook, statistics and trends regarding the implementation of discipline in use of force cases, and relevant provisions of the Handbook. The Task Force met with representatives of the Career Service Board to understand Career Service Rules and disciplinary processes. The Task Force subsequently discussed disciplinary appeals decisions, opinions of the Career Service Board and Hearing Officers, and relevant court decisions resulting from the appeals process. Finally, the Task Force discussed what were referred to as "cultural" issues within the Sheriff Department and the perceptions of Department and community members with regard to the discipline system.

On September 29, 2014, the Discipline Task Force submitted 32 written recommendations based upon its finding that disciplinary practices on the Department should be improved in order to better reflect the seriousness of deputies' uses of inappropriate force and the impact such force has on the reputation of the Department, its ability to garner trust and support in the community, and potential civil liability. Consequently, the recommendations, generally summarized, involved increasing sanctions for any use of inappropriate force and other violations involving the mistreatment of inmates; stressing the obligation to treat inmates in a humane and respectful manner; emphasizing the community expectation that deputies use only the amount of force necessary to perform their duties; and creating/maintaining a culture where the inappropriate use of force would not be tolerated and deputies held appropriately accountable.

The specific recommendations, however, were not implemented at the time, pending the completion of what was described as a “top to bottom” review of the Department by nationally recognized consultants, Hillard Heintze and OIR (Office of Independent Review) Group. That review was conducted over a four-month period between October, 2014 and February, 2015, during which the consultants considered the recommendations of the Discipline Task Force.

On May 21, 2015, the Hillard Heintze/OIR Group report was published containing over 350 recommendations for improvement covering all aspects of the Sheriff Department. While no additional recommendations were made concerning the discipline system itself, a significant number addressed use of force and Internal Affairs policies and practices that had a direct impact on provisions of the Discipline Handbook and the imposition of discipline.

In June of 2015, the Executive Director of Safety created a number of “Action Teams” that were tasked with considering and implementing, where deemed appropriate, the Hillard Heintze/OIR Group recommendations along with recommendations resulting from other review processes such as the 2015 audit of jail operations conducted by the Denver City Auditor’s Office, reports of the Office of the Independent Monitor, and submissions by the Colorado Latino Forum. Consequently, the 40-member Use of Force/Internal Affairs Action Team, comprised of DSD personnel, other City employees, and concerned citizens, was formed. Within that Action Team, a Discipline Sub-Group was formed and charged with implementing the recommendations of the 2014 Discipline Task Force and any other changes deemed appropriate to effectively implement the recommendations resulting from all review processes. Most of the members of the Discipline Sub-Group had also been members of the 2014 Discipline Task Force and were extremely knowledgeable of discipline system issues.

Additionally, during the course of their meetings between June, 2015 and September, 2016, Discipline Sub-Group members reviewed and discussed departmental disciplinary decisions and practices, procedural issues raised during disciplinary appeals, and Career Service Board disciplinary decisions occurring after the Discipline Task Force ended its work in 2014. Of particular significance were decisions that raised issues regarding provisions of the Discipline Handbook and their interpretation and application in use of force and untruthfulness cases. Sub-Group members also reviewed all Departmental Rules and Regulations and their assigned conduct categories and recommended changes to reflect revisions to the definition of certain conduct categories and the Department’s assessment of what conduct categories were appropriate for each rule.

As a result of the above-described processes, revisions have been made to certain provisions in this Discipline Handbook. Among these revisions are:

- The elimination of language referencing “consistency” in the imposition of disciplinary sanctions in order to make clear that the provisions of the Discipline Handbook are not intended to be interpreted as creating a comparative discipline system.
- The elimination of any language suggesting the review or consideration of prior discipline cases in order to determine the appropriate conduct category (section 15.0, Determining appropriate conduct categories – analysis).

- An expanded explanation of the goals and purposes of discipline and their intended compliance with Career Service Rules and disciplinary principles.
- Amendments to the definitions of Conduct Categories D, E, and F.
- An expanded explanation of the intended differences among the definitions of Conduct Categories A through F and their application to various Rules and Regulations.
- An expanded explanation of the rationale for assigning various Rules and Regulations to specific conduct categories or ranges of conduct categories.
- Clarification of procedural practices regarding “stacking” and the authority of the Executive Director of Safety to add additional rule violations to any Contemplation of Discipline.
- Elimination of the original Discipline Advisory Group Standing Committee and clarification of the authority of the Executive Director of Safety to amend provisions of the Discipline Handbook.
- Amendments to the assigned conduct categories of certain Rules and Regulations to reflect changes in the definitions of conduct categories and the Department’s assessment of the seriousness of the violation or the harm that results from them.
- The addition of new Rules and Regulations regarding the dimming of lights and the inappropriate attempt to use force; RR-400.8.5 – Ensuring Lighting in Housing Units and RR-300.22.4 – Pointing or Displaying a Weapon with the Attempt to Threaten.
- Amendments to Appendix A – DSD Mission, Vision and Guiding Principles.
- Amendments to Appendix B regarding comments on the Department’s Guiding Principles.
- Amendments to Appendix C in the following areas:
 - Untruthfulness
 - Conduct Prohibited by Law
 - Use of Inappropriate Force (Substantial re-writing to reflect revised Use of Force Policy, effective 1/1/17)
 - Use of Force Reporting (Substantial re-writing to reflect revised Use of Force Policy and other reporting practices, effective 1/1/17)
 - Conduct Prejudicial
 - Definitions and Explanation of Terms

- Amendments to Appendix E (Penalty Table) to reflect the elimination by the Career Service Board of an oral reprimand as a disciplinary sanction.
- Amendments to Appendix E (Discipline Matrix) to reflect changes in the definitions of Conduct Categories D, E, and F and the re-assignment of certain Rules and Regulations to their appropriate conduct categories.
- Addition of an Appendix I entitled “Discipline Handbook Provisions and their Intended Compliance with Career Service Rules and Discipline Principles”

CONDUCT PRINCIPLES AND DISCIPLINARY GUIDELINES

Any reference to the “Sheriff” shall include any designee of the Sheriff including, but not limited to, the Conduct Review Unit. Any reference to the “Executive Director of Safety” shall include any designee of the Executive Director including, but not limited to, the Deputy Director of Safety and the Civilian Review Administrator, or other investigative agency. This rule applies to all references in this Handbook including those in Appendices.¹

1.0 The Purpose and Importance of an Effective Disciplinary System

- 1.1** The overall objectives of this disciplinary system are to facilitate the orderly functioning and operation of the Denver Sheriff Department; to help ensure employee adherence to reasonable standards of performance and conduct; to provide fair consequences for failing to adhere to those standards; and to help ensure that discipline is not based upon some improper factor such as bias, prejudice, favoritism, or the like.
- 1.2** Deputy sheriffs hold a “position of trust” – a trust bestowed upon them by the Department and the community – and are visible representatives of government. They are given enormous discretion in carrying out their duties – discretion that also carries tremendous responsibility. Deputy sheriffs are given the responsibility to provide for the care of persons held in the custody of the City and County of Denver and the right to restrict personal freedom and use force, including deadly force, when appropriate.
- 1.3** Because of the trust placed in them and the enormity of the discretion and authority granted to them, deputy sheriffs must understand that the community has every right to expect and demand the highest level of accountability from the Department and individual deputies. Deputies must know that, when they engage in misconduct, they will receive fair and appropriate discipline commensurate with the level of misconduct. Discipline should not be an unexpected event but rather an anticipated consequence of inappropriate conduct.
- 1.4** An effective discipline system is one that is fairly administered and based upon Department-wide and Career Service standards known and enforced by all members of the Department and designed to produce timely results. This system serves the public, deputies, and administration by reinforcing the acceptable standards of conduct and presenting a clear methodology for consequences related to a failure to abide by such standards.
- 1.5** An effective disciplinary system results in strengthened relationships and

¹ In the first quarter of 2019, the Executive Director of Safety created the Public Integrity Division (“PID”) to carry out the functions that had been handled by DSD Internal Affairs Bureau and the Conduct Review Office. Within the PID are both an investigative section, and a section that reviews the investigation and determines whether there are potential conduct violations. All references to Administrative Investigations Unit (AIU), the investigative section of the PID, or the Conduct Review Unit (CRU) are equally applicable to any cases that remained under Internal Affairs Bureau or Conduct Review Office during the transition to the new PID.

increased levels of trust within the Department and with the community by ensuring clarity in expectations and accountability for actions by both the Department and the individual deputies.

2.0 General Principles of Discipline

- 2.1** The discipline system must be fairly and efficiently administered so as to promote and maintain a culture of public accountability, individual responsibility, and maintenance of the highest standards of professionalism.
- 2.2** Discipline should reflect the guiding principles of the Department and promote respect and trust within the Department and with the community.
- 2.3** Discipline should be based upon reasonable notice of the standards by which conduct will be judged and of the likely consequences of the failure to adhere to Department rules and policies. With respect to those “likely consequences,” the rules and processes set forth in this Handbook provide notice to a deputy of a range of disciplinary sanctions that he/she can reasonably expect to receive for misconduct but is not intended to create a “comparative” or “consistent” discipline system.
- 2.4** Programs and practices outside the discipline system such as triage (also known as “filtering”), mediation, education, training, and the like, that assist deputies in adhering to Department standards and modifying behaviors, should be promoted and utilized to their fullest extent.
- 2.5** The investigation of allegations of misconduct must be fair, thorough, conducted with full regard for the rights of deputies, and designed to develop all relevant facts necessary for the fair determination of the issue in question.
- 2.6** Truthfulness is vital to the investigation and review process and shall be expected and demanded of all persons involved in the investigation and review of allegations of misconduct including, but not limited to, subject deputies, witness deputies, complainants, other witnesses, the decision maker, investigators, and reviewers.
- 2.7** The determination of whether an allegation of misconduct should be sustained must be based upon the application of Department-wide standards and the fair consideration of only those facts relevant to that determination.
- 2.8** Where allegations of misconduct are sustained, disciplinary sanctions must be imposed for legitimate purposes and must reflect all facts and circumstances relevant to the determination of appropriate discipline.
- 2.9** While the Department strives to complete both investigations of possible misconduct and disciplinary proceedings in a timely fashion, the amount of time spent conducting an investigation and/or a disciplinary process is not a ground for finding that a deputy has not violated a disciplinary rule; nor is it a mitigating factor to be considered in determining an appropriate disciplinary

sanction. Deputies who violate DSD or CSA rules or policies should be held accountable for those violations regardless of the timeliness of the investigative and discipline processes.

- 2.10** The administration of the discipline process shall not discriminate against anyone on the actual or perceived basis of race, color, creed, national origin, ancestry, gender, sexual orientation, age, religion, political affiliation, physical or mental disability, military status, marital status, immigration status, or other basis protected by Federal, State, or local law or regulation.
- 2.11** All persons involved in the administration of the discipline process have the duty to fairly and conscientiously carry out their responsibilities in accordance with Departmental procedures and policies.
- 2.12** The administration of discipline must be based upon the fair application of disciplinary principles and guidelines and the exercise of reasonable and prudent judgment.
- 2.13** No rule or policy shall be created, interpreted, or applied so as to lead to a result that is unjust, unreasonable, unconscionable, or contrary to the goals and purposes of these Conduct Principles and Disciplinary Guidelines.

3.0 Deleted

4.0 Practices in Support of an Effective, Efficient Disciplinary System

- 4.1** An effective and efficient disciplinary system requires an approach that will provide deputies with fair notice and a clear understanding of the range of potential consequences of misconduct and that will result in fair treatment of all deputies. In addition, the tremendous importance of programs and practices that can make the disciplinary system more efficient and effective or that may assist deputies in modifying behaviors without the imposition of disciplinary sanctions is of equal value. Among them are triage or filtering, mediation, peer support, psychological services, education and training, and recognition of deputies' positive actions on behalf of the Department and the public.

4.2 Triage or Filtering

- 4.2.1** A properly designed filtering or triage process allows for efficient allocation of Department resources by allowing Internal Affairs investigators to devote their time to the investigation of serious allegations of misconduct, rather than trivial or minor violations. A properly designed system requires that allegations of serious misconduct, as defined elsewhere in DSD policy, must be sent to the Administrative Investigative Unit (AIU) for its review and may not be summarily dismissed by facility supervisors. After a preliminary investigation by the AIU, these allegations may be declined for further action or converted to formal or informal cases, in accordance with the guidelines in the AIU Procedures Manual.

- 4.2.2 Note that this triage process does not exclude the Office of the Independent Monitor (OIM), which is to provide oversight of complaints of misconduct. It simply provides for greater flexibility in determining what level of resources to devote to each complaint.

4.3 Mediation

- 4.3.1 The mediation of citizen and internal complaints is strongly endorsed and encouraged by the Department. As a voluntary option, mediation provides both deputies and community members the opportunity to gain a better understanding of each other's perspective. When conducted by professional mediators in a neutral, non-confrontational, and confidential manner, mediation can increase understanding and trust between deputies and community members.
- 4.3.2 Miscommunications or misunderstandings often play a role in complaints against deputies. Mediation is an exceptional tool for creating common ground between the Department's subject deputies and complainants. When a deputy is offered mediation to resolve a complaint, the hope is that he/she will recognize mediation as an educational opportunity to help a complainant understand the reasons for the subject deputy's actions. Likewise, providing a deputy the opportunity to mediate in lieu of conducting an internal investigation gives the deputy a unique opportunity to understand the perspectives of complainants and the effects of the deputy's behavior on those persons. Additionally, providing a mediation option for internal complaints can resolve misunderstandings, clarify misconceptions, and build solid foundations for better working relationships.
- 4.3.3 The above described mediation program is not intended to apply to inmate grievances or complaints. These are to be handled through the already established inmate grievance process or other appropriate processes.

4.4 Education and Training

- 4.4.1 The Denver Sheriff Department has long embraced "in-service" training and education as essential to its success as an organization. By providing deputies with the knowledge, skills, and abilities needed to effectively and safely perform their duties, the Department will enhance its deputies' ability to provide effective, safe, and ethical service to the Department and public.
- 4.4.2 Continuing education and training is intended to teach and develop new skills and knowledge while reinforcing and strengthening knowledge and skills already learned. Deputies, supervisors, and

command personnel are encouraged to avail themselves of the training opportunities afforded by the Department and outside sources.

- 4.4.3 Training for a deputy, in addition to disciplinary sanctions, can be ordered when observations made by peers or supervisors may reasonably call into question the deputy's skills or knowledge or when a deputy is under investigation for misconduct or has been found to have committed misconduct. If the deputy remains with the Department, training may be appropriate to ensure the deputy has the proper skills to satisfactorily perform his/her job. Issues related to the amount and type of training a deputy has received cannot be used as a defense to policy or rule violations and do not constitute a mitigating factor or circumstance.
- 4.4.4 A menu of programs that may be considered for certain types of misconduct is included as Appendix D of this Handbook. Command and supervisory officers must be aware of these programs and make them available, when appropriate, to all deputies.
- 4.4.5 References to training are not intended to be disciplinary in nature but are intended to improve performance.

4.5 Recognition of Positive Actions

- 4.5.1 The need for recognition of good work done by deputies on an ongoing basis is crucial. Department and community acknowledgement of deputies through the giving of honors and awards is essential to maintaining good morale within the Department and ensuring community pride and respect for its law enforcement officers.
- 4.5.2 Personal recognition by peers, supervisory and command staff, and citizens is strongly encouraged to provide balance to the necessities of the disciplinary system. To accomplish that goal, efforts will be made to make it easier for the community and the Department to give positive recognition to deputies in numerous locations throughout the City, on the Department website, and in the reports of both the Department and Independent Monitor's Office. Informing the public and the Department when deputies receive commendations or awards is a critical component in providing the community with a balanced view of the deputies who serve the community.

5.0 Specific Notice Regarding Practices in Support of the Disciplinary System

- 5.1 Practices such as mediation, remedial training, counseling, and the like are means to affect the performance and conduct of deputies apart from the imposition of disciplinary sanctions and to improve the efficiency and effectiveness of the

disciplinary system. These practices are not disciplinary actions; nor are they even part of the disciplinary process. Additionally, they are not intended to relieve deputies of responsibility for their misconduct. Therefore, the failure of the Department to provide any of the above or the failure to apply any of the programs or practices to a particular deputy or a particular disciplinary case does not create a defense to a deputy's misconduct or constitute a mitigating circumstance.

6.0 Specific Notice Regarding the Ancillary Consequences of the Disciplinary System

- 6.1** The disciplinary penalties that may be imposed on Department members consist of a written reprimand, involuntary temporary reduction in pay, suspension without pay, involuntary demotion with a reduction in pay, and dismissal. The Executive Director of Safety is responsible for imposing all disciplinary penalties except for reprimands (which may be issued by the Sheriff or their designee). While the Executive Director has delegated the issuance of reprimands to the Sheriff, the Executive Director retains authority to also issue reprimands.
- 6.2** The Sheriff may establish practices, make decisions, and enter orders with regard to matters not directly related, but ancillary, to the imposition of discipline. These can include, but are not limited to, no-contact orders, temporary or permanent assignments, regulating on-duty work hours and responsibilities, regulating secondary employment privileges, ordering psychological or other work-related examinations, determining necessary remedial training, or entering any other order, restriction, or condition deemed appropriate under the circumstances. These practices do not constitute the imposition of discipline and are not a part of the disciplinary system. Therefore, the imposition of any of the above orders, conditions, or restrictions may not be considered in determining whether a violation should be sustained and, if so, what the appropriate penalty should be.
- 6.3** Similarly, the imposition of disciplinary sanctions may also have an impact on future status and benefits including, but not limited to, assignments, promotions, or appointments. The Sheriff, Executive Director of Safety, or Denver Career Service Board may establish policies and practices with regard to any of these areas. These policies and practices do not constitute the imposition of discipline and are not a part of any disciplinary sanction. Therefore, the future impact of the imposition of disciplinary sanctions may not be considered in determining whether or not a violation should be sustained and, if so, what the appropriate penalty should be.
- 6.4** Finally, the imposition of disciplinary sanctions will no doubt have personal and financial impact on the deputy who is disciplined. Understandably, that impact will vary from deputy to deputy based upon his/her personal circumstances. These types of variables may not be considered in determining whether a violation should be sustained and, if so, what the appropriate penalty should be.

7.0 Summary of Determinations to be made in the Disciplinary Process

- 7.1** There are four basic determinations to be made during the course of the disciplinary process. They include:
 - 7.1.1** Determining whether a complaint asserts an allegation of misconduct and, if so, recording it within the proper database.
 - 7.1.2** Where appropriate, conducting an investigation to determine the facts of the case, the issues in dispute, and what, if any, possible Department or Career Service rule violations should be considered by the Sheriff or EDOS.
 - 7.1.3** Upon review of these possible rule violations, determining whether there is sufficient evidence to sustain a given rule violation or whether some other finding should be made.
 - 7.1.4** If a rule violation is sustained, determining the appropriate disciplinary sanction.

8.0 Determining the Facts: Statement with Regard to Internal Investigations

- 8.1** The integrity of the internal investigation process is essential to the fair administration of discipline. No system of discipline can be effective without investigations that can be considered unbiased and trustworthy by members of the Department and the general public.
- 8.2** Investigations must be fair, thorough, timely, in accordance with accepted Department policies and procedures, and conducted with full regard for deputies' rights and the respect due to fellow deputies. Likewise, they must be conducted with regard for the rights and respect due to non-sworn members of the Department, all complainants and witnesses, and all other members of the public. Investigations shall not discriminate against anyone on the basis of actual or perceived race, color, creed, national origin, ancestry, gender, sexual orientation, age, religion, political affiliation, physical or mental disability, military status, marital status, immigration status, or other basis protected by Federal, State, or local law or regulation.
- 8.3** Investigations must be designed to develop all relevant facts necessary for a fair determination of the issue in question. They should not be slanted to favor any particular interest, affect any particular outcome, or shield any relevant facts from disclosure.
- 8.4** Truthfulness is vital in an internal investigation. It must be expected and demanded. Department personnel are required to cooperate and be completely truthful or face disciplinary sanctions. Non-Department personnel must also be truthful.

9.0 Determining Whether a Violation Has Been Proven

- 9.1** Upon completion of the internal investigation, the disciplinary process requires a determination of whether the violation should be sustained, that is, whether the violation has been proven to have occurred by a preponderance of the evidence.
- 9.2** To help ensure that all reviewers of discipline cases are applying the same standards, the instructions detailed below (section 10.0) must be followed by all persons involved in reviewing allegations of misconduct and determining whether a violation has been proven.

10.0 Determining Whether a Violation Has Been Proven – Instructions

- 10.1** In determining whether a violation of any Departmental rule, regulation, policy, procedure, or directive has been proven, the reviewer must act as a finder of fact. The process is separate and distinct from any consideration of what disciplinary sanction, if any, is appropriate if it is determined that a violation has been proven.
- 10.2** As a finder of fact, the reviewer must rely only upon the evidence in the case, which may be reviewed in whole or in part depending upon the reviewer's assessment of the relevance or importance of particular evidence. One type of evidence is statements, including those from subject deputies, witness deputies, civilian witnesses, or inmates. Evidence also includes documents, photographs, videos, audio recordings, diagrams, and other facts that are part of the case file. All other items that are contained in the investigative file, including the complaint and the subject deputy's disciplinary history, are also evidence in a disciplinary case.
- 10.3** Evidence may be direct or circumstantial. Circumstantial evidence is the proof of facts or circumstances from which the existence or nonexistence of other facts may reasonably be inferred. All other evidence is direct evidence. The weight to be afforded to any evidence is within the discretion of the finder of fact.
- 10.4** The reviewer is expected to use his/her common sense and life experiences when acting as a finder of fact. However, he/she is not to base any conclusions on information known to him/her regarding the matter or the persons involved in the matter if that information is not part of the investigative file.

As the finder of fact, the reviewer must judge the credibility of witnesses and the weight to be given their statements. In doing so, he/she should take into consideration the witnesses' means of knowledge, strength of memory, and opportunities for observation; the reasonableness or unreasonableness of their statements; the consistency or lack of consistency in their statements; their motives; whether their statements have been contradicted or supported

by other evidence; their bias, prejudice, or interest, if any; their manner or demeanor while making statements; and all other facts and circumstances – shown by the evidence – that affect the credibility of the witnesses.

In considering witness credibility, the reviewer should apply the same criteria to all witnesses regardless of whether the witness is a subject deputy, a witness deputy, a complainant, a civilian witness, a supervisor or command officer, or an inmate. The reviewer should not automatically consider any witness to be more credible than another witness simply because that witness is or is not a deputy sheriff. Furthermore, he/she is not to afford any particular degree of credibility to a witness simply because of that witness's rank.

There may be instances where a fact finder receives conflicting evidence and different accountings from different witnesses. It should be remembered that this does not necessarily mean that a witness is intentionally being untruthful, although that is a possibility to be considered. Discrepancies in a witness's statement or between one witness and another do not necessarily mean that either witness should be discounted. Failure of recollection is common. An innocent mistake in recalling events is not uncommon. Two persons witnessing the same event may see, hear, or otherwise perceive it differently. Where such discrepancies exist, the reviewer should consider, based upon all the facts and circumstances, whether the discrepancies result from an intentional falsehood or from some other reason. Additionally, the reviewer should consider whether any discrepancy relates to a matter that is significant or insignificant to the issue to be determined.

Based on all of these stated considerations and all the facts, circumstances, and evidence in the case, the reviewer may believe all, part, or none of any witness's statements. He/she may also determine what weight, if any, to give to any witness's statements.

- 10.5** The weight or sufficiency of evidence is not necessarily determined by the number of witnesses presenting evidence in support of or against a particular issue. An issue should not be decided by the simple process of counting the number of witnesses on opposing sides. The test to be applied is not the number of witnesses but the convincing force of the evidence presented by the witnesses.
- 10.6** The reviewer must review the policy, procedure, rule, regulation, or directive alleged to have been violated and apply it to the facts as he/she determines them. The reviewer must do so without regard for whether he/she personally agrees with the particular policy, procedure, rule, regulation, or directive or whether he/she believes it should be amended or repealed.
- 10.7** In determining whether there is sufficient evidence to establish that a violation has occurred, the reviewer must apply the standard of proof known as "preponderance of the evidence." To prove something by a "preponderance of the evidence" means to prove that it is more likely than not.

10.8 A finding of whether or not a violation has been proven by a preponderance of the evidence must be based on a fair and rational consideration of all of the evidence and only the evidence in the case. The finding must not be based on, or influenced by, any of the following:

10.8.1 Guesses or speculation;

10.8.2 Facts not contained in the investigative file;

10.8.3 Sympathy, bias, or prejudice for or against the subject deputy, any witness, any other person involved, the Department or its administration, or any other person or entity having an interest in the case;

10.8.4 The reviewer's personal assessment of the subject deputy's reputation, work history, or discipline history, where such evidence is not a part of the investigative file or is not relevant to the determination of whether there is sufficient evidence to sustain the violation currently being considered;

10.8.5 The rank of the subject deputy unless rank is an element of the alleged violation;

10.8.6 The anticipated or perceived effect that the finding may have on the subject deputy, such as the penalty that might be imposed or the effect that the finding may have on areas outside of the discipline system but within the discretion of the Sheriff/Executive Director of Safety such as secondary employment, assignment, appointment, promotion, or the like; or

10.8.7 The anticipated, perceived, or potential effect that the finding may have on any witness, other involved person, the Department or its administration, the public or public opinion, or any other person or entity having an interest in the case unless that effect is an element of the alleged violation.

It is again emphasized that the finding of whether a violation has been proven, and therefore sustained, must be based on the evidence and the evidence alone.

10.9 If the evidence fails to establish by a preponderance that the subject deputy has committed the violation in question or if the evidence is so balanced that a preponderance cannot be determined, the allegation must not be sustained. If the evidence does establish by a preponderance that the deputy committed the violation in question, then the allegation must be sustained.

10.10 After reviewing all the evidence and after determining formal findings are necessary, the reviewer must make one of the following findings for each of the rule violations considered:

- 10.10.1 Unfounded: The investigation indicates that the subject deputy's alleged actions relating to the policy, procedure, rule, regulation, or directive in question did not occur.
- 10.10.2 Exonerated: The investigation indicates that the alleged actions of the subject deputy were within the policies, procedures, rules, regulations, and directives.
- 10.10.3 Not Sustained: There is insufficient evidence to either prove or disprove the allegation.
- 10.10.4 Sustained: The subject deputy's actions were found by a preponderance of the evidence to have been in violation of the policy, procedure, rule, regulation, or directive in question.
- 10.10.5 Resolved – The complaint was satisfied through subject officer resignation, retirement, or other means, and no disciplinary action or procedural inadequacies were determined.²

10.11 As a finder of fact, the reviewer may be reviewing the disciplinary recommendations of others with regard to the same case or participating in a group deliberation process. In doing so, the reviewer should consider the recommendations and opinions of others, but the reviewer is entitled to give them whatever weight, if any, he/she believes they reasonably deserve based on the evidence. As a finder of fact, the reviewer is entitled to independently assess the evidence and reach his/her own independent findings in accordance with all the instructions given herein and a fair consideration of all the evidence presented.

10.12 As a finder of fact, the reviewer may be participating in an official disciplinary proceeding such as a contemplation of discipline meeting, where information in addition to the investigative file, such as a statement by the subject deputy, is presented for consideration. The reviewer may properly consider that additional information, assess its credibility, and afford it whatever weight he/she deems appropriate.

11.0 Determining Appropriate Discipline – The Goals and Purposes of Disciplinary Sanctions

11.1 Discipline that is to be considered “fair and rational” should be imposed for legitimate purposes reasonably related to the misconduct being addressed. The purposes of discipline should be understood by all members of the Department and the community if they are to trust that discipline is being justly administered.

11.2 The purposes to be achieved by the imposition of discipline in a particular case are properly dependent on all the facts and circumstances of that case. Those

² PREA investigations may not be terminated by the PID despite the subject deputy leaving the department. The case will be closed as “unable to determine” rather than “resolved”.

purposes may vary based upon a consideration of numerous factors including, but not limited to, the nature and seriousness of the misconduct, the circumstances under which the misconduct was committed, the harm or prejudice arising from the misconduct, and the existence of any relevant mitigating or aggravating circumstances.

11.3 Among the primary purposes of disciplinary sanctions are the following:

- 11.3.1 To modify/correct the conduct of the disciplined deputy. (This should not be read to mean that a deputy cannot be terminated for a first offense. As contemplated by Career Service Rule 16 and this Handbook, a deputy may be dismissed without prior discipline if the facts of the case warrant dismissal.);
- 11.3.2 To deter future misconduct by the disciplined deputy;
- 11.3.3 To impose an appropriate penalty on the disciplined deputy, taking into account the nature and seriousness of the misconduct, any mitigating or aggravating factors, and the deputy's disciplinary and work history;
- 11.3.4 To address/reflect the harm or risk of harm arising from the misconduct and the effects of the misconduct both inside and outside the Department; and
- 11.3.5 To provide notice of the range of potential consequences of misconduct to all members of the Department and to deter future misconduct by all members.

11.4 In addition, the imposition of appropriate discipline will also serve to help accomplish other goals of the discipline system including but not limited to:

- 11.4.1 Ensuring the orderly functioning and operation of the Department and adherence to its established standards of conduct;
- 11.4.2 Reinforcing the guiding principles of the Department;
- 11.4.3 Reinforcing training;
- 11.4.4 Effectively managing risk and potential civil liability for deputies, the Department, and the City; and
- 11.4.5 Establishing trust in, and respect for, the discipline system and the Department, both internally and in the community.

11.5 It is important for all members of the Department and the public to understand that the goals and purposes of the discipline system are different from those of the criminal justice and civil law systems. Those systems are administered under separate rules and principles and provide for sanctions that are different from the discipline system.

- 11.5.1 While some of the factors taken into consideration in the civil and criminal systems may overlap with factors considered in the discipline system, it must be remembered that the purposes of disciplinary sanctions are different from the purposes of civil and criminal law sanctions. Disciplinary sanctions are not intended to function as monetary damages that may be available to an aggrieved party under the civil law. Similarly, disciplinary sanctions are not intended to function as “criminal sanctions” (such as jail sentences and fines), which may be available under the criminal law for deputy misconduct that rises to the level of a provable criminal offense. It is not necessary that a deputy be criminally convicted in order for the Department to discipline the deputy for misconduct that is prohibited by law.
- 11.5.2 As noted previously, the imposition of appropriate discipline is designed to accomplish, among other things, the orderly functioning and operation of the Department and ensure adherence to established standards of conduct. The responsibility for accomplishing this goal rests with the Sheriff and Executive Director of Safety through a properly functioning, fair, and effective discipline system.

12.0 Development of the Discipline Matrix

- 12.1 The discipline matrix was designed through extensive input from representatives of the Sheriff Department, City management, appointed officials, legal advisors, and concerned members of the public.
- 12.2 The matrix was designed to accomplish the following goals:
 - 12.2.1 Define conduct categories and set discipline levels;
 - 12.2.2 Identify, to the extent possible, what Rules and Regulations fall into each conduct category;
 - 12.2.3 Identify sanctions that would be appropriate for each conduct category and discipline level while recognizing that all situations are not alike and some flexibility is required;
 - 12.2.4 Identify a fair and reasonable presumptive penalty for each discipline level;
 - 12.2.5 Provide fair and reasonable ranges of penalties at each discipline level in the event there are compelling mitigating and/or aggravating factors to be considered;
 - 12.2.6 Provide notice to deputies and the community of the processes for determining disciplinary sanctions; and

12.2.7 Provide Department established standards applicable to all deputies.

12.3 In defining categories of conduct, deciding what Rules and Regulations (R&Rs) should be placed in each category, and determining reasonable presumptive, mitigated, and aggravated penalties, consideration was given to the nature and seriousness of the conduct proscribed by each R&R; how the violation of the R&R impacts the operations, mission, guiding principles, and professional image of the Department; the potential or actual harm, injury, or prejudice arising from the violation; and the purposes and goals of disciplinary sanctions. For violation of other disciplinary rules in addition to Departmental Rules and Regulations (such as CSA rules, Mayor's Executive Orders, etc.), the facts underlying the rule violation must be applied to the definition of each category of conduct to determine which category should be used to determine the appropriate presumptive penalty.

13.0 Categories of Conduct

13.1 There are six categories of conduct in the matrix system. Categories range from the least serious to most serious with regard to the nature of the conduct and its harm/impact on the Department and community. (See Appendix E) There are important differences in the descriptions of each conduct category that are intended to reflect the increased seriousness of the misconduct. While reasonable reviewers may sometimes disagree on the appropriate conduct category for a violation, such disagreement does not mean that the conduct category selected by a reviewer, including the Executive Director of Safety, lacks validity.

13.1.1 Category A – Misconduct that has a minimal negative impact on the operations or professional image of the Department.

13.1.2 Category B – Misconduct that: (i) has more than a minimal negative impact on the operations or professional image of the Department; or (ii) negatively impacts relationships with other deputy sheriffs, employees, agencies, detainees, or the public.

13.1.3 Category C – Misconduct that has a pronounced negative impact on: (i) the operations or professional image of the Department; or (ii) relationships with other deputy sheriffs, employees, agencies, or the public.

13.1.4 Category D – Misconduct that: (i) is contrary to the guiding principles of the Department or interferes with its mission to provide care and custody to inmates in accordance with those guiding principles; (ii) substantially interferes with the Department's operations or professional image; (iii) involves a demonstrable risk to the safety of a deputy sheriff, an employee, a detainee, or the public.

13.1.5 Category E – Misconduct that: (i) foreseeably results in bodily injury

or otherwise results in an actual adverse impact on the safety of a deputy sheriff, an employee, a detainee, or the public; (ii) involves unethical behavior or a serious misuse of authority.

- 13.1.6 Category F – Misconduct that: (i) foreseeably results in death or serious bodily injury; (ii) constitutes a willful and wanton disregard of Department guiding principles; (iii) involves any act so serious as to demonstrate a lack of the integrity, ethics, character, or fitness to hold the position of Denver deputy sheriff; (iv) involves any serious or abusive conduct contrary to the standards of conduct reasonably expected of one whose sworn duties are to uphold the law and to provide for the care and custody of detainees; or (v) involves any conduct that constitutes the failure to adhere to any conditions required by law, contract, or policy for employment as a Denver deputy sheriff.

14.0 Assigning Conduct Categories to Specific Rules and Regulations

- 14.1 Although the pre-determined categories contained in the matrix will likely cover the vast majority of disciplinary violations, several issues of importance are noted here:

14.1.1 The individual Rules and Regulations have been placed into particular conduct categories (See Appendix E) based upon the nature and type of misconduct to which the Rule and Regulation has historically been applied. However, the unique and extraordinary factual circumstances of a given case may justify the application of a different conduct category than that previously assigned to the particular violation in the matrix. As such, the Sheriff, the Executive Director of Safety, members of the Conduct Review Office, Career Service Hearing Officers, and the Career Service Board can and may determine that a previously assigned conduct category is not appropriate under the unique and extraordinary factual circumstances of the case. In this situation, a deviation from the matrix is allowed. Any such deviation must be documented, reasonable under the circumstances, and justified by the facts of the case. Such deviation shall be guided by the analysis contained in section 15.0 below.

14.1.2 A limited number of Rules and Regulations could fit into any or all of the conduct categories based upon the nature of the conduct being addressed. An example is RR-300.11.6 - Conduct Prejudicial. Anyone reviewing such a case shall consider the factors noted below (section 15.0) and the facts of the case in order to determine the most appropriate conduct category.

14.1.3 Certain Rules and Regulations could fit into more than one but not all conduct categories. An example of this is RR-200.11 - Sleeping on Duty. Any violation of that Rule has been determined to be at least a Conduct Category “D” but could fall into a higher category

based upon the particular facts and circumstances. Again, in order to determine the appropriate conduct category, any reviewer shall consider the various factors noted below in section 15.0.

- 14.1.4 No attempt has been made to categorize all sources of rules that may apply to alleged misconduct by deputy sheriffs. Clearly, the Career Service Rules and the Department Rules and Regulations govern deputy conduct, but there are other rules and orders that might apply to misconduct. These include such things as Mayor's Executive Orders, post orders, other policies and procedures, directives, special orders, training bulletins, or the like. In order to determine the appropriate conduct category, anyone reviewing misconduct based upon any of these types of violations should consider the factors outlined below in section 15.0.

15.0 Determining Appropriate Conduct Categories – Analysis

15.1 Situations will arise where personnel charged with the responsibility of recommending or ordering disciplinary sanctions will have to determine the appropriate conduct category into which the misconduct falls and whether the alleged misconduct satisfies the definition of a particular category. This is a necessary first step in determining the appropriate sanction. In analyzing the misconduct, the following questions, among others, should be considered:

- 15.1.1 What is the general nature of the misconduct?
- 15.1.2 How does the misconduct relate to the stated mission, vision, and guiding principles of the Department?
- 15.1.3 How does the misconduct impact the operations and image of the Department and its relationship with other agencies or the community?
- 15.1.4 What is the actual and demonstrable harm or risk of harm involved?
- 15.1.5 Does the misconduct involve an actual and demonstrable impact on deputy, employee, or public safety, or a demonstrable serious risk to deputy, employee, detainee, or public safety?
- 15.1.6 Did the violation result in actual injury to a deputy, employee, detainee, or member of the public? If so, what is the extent of the injury?
- 15.1.7 Did the misconduct foreseeably result in bodily injury, serious bodily injury, or death?
- 15.1.8 Does the misconduct involve unethical behavior, an abuse or misuse of authority, or misconduct that is otherwise abusive?
- 15.1.9 Did the misconduct involve the use or attempted use of inappropriate force? Did it rise to the level of an abuse of the

authority to use force or a failure to intervene in and/or report such force?

- 15.1.10 Does the misconduct involve the willful and wanton disregard of Department guiding principles?
- 15.1.11 Is the misconduct so serious as to call into question the deputy's fitness to hold the position of Denver deputy sheriff?
- 15.1.12 Does the misconduct involve a serious or an abusive act contrary to the standards reasonably expected of one whose sworn duty is to uphold the law and to provide for the care and custody of detainees?
- 15.1.13 Does the misconduct constitute a failure to adhere to any condition of employment required by contract or law?

15.2 In determining the conduct category, the reviewer should focus on the nature of the misconduct and how it conforms to the definitions of conduct categories already established. It should be distinguished from the analysis of mitigating and aggravating factors, which determines penalties within a given conduct category.

15.3 In determining the conduct category, the definition of the category and the analysis described in this section shall control the determination of what category applies to the violation in question. No attempt should be made to unjustifiably or unreasonably "fit" a violation into a particular conduct category based upon the desire to reach or avoid a certain discipline level or a certain penalty.

16.0 Brief Description of Matrix Tables

16.1 The disciplinary matrix has two primary tables: The Categories, Violations, and Discipline Level Assignments Table and the Penalty Table (Appendix E).

16.2 The Categories, Violations, and Discipline Level Assignments Table identifies:

- 16.2.1 The definitions of each Conduct Category (A through F);
- 16.2.2 Violations in the form of Rules and Regulations (R&Rs) that are found within each of these conduct categories; and
- 16.2.3 The discipline level assigned to each conduct category based, in part, on the number of offenses of an equal or greater conduct category that have occurred during the specific time periods assigned to that conduct category. This table also shows how the discipline levels (levels 1 through 8) increase by one level for each repeated violation of an R&R of an equal or greater conduct category during the specified time period.

16.3 The Penalty Table identifies:

- 16.3.1 Eight discipline levels (1 through 8) ranging from least serious to most serious; and
- 16.3.2 The penalties associated with each discipline level with specification of the presumptive penalty and the mitigated and aggravated penalty ranges.

17.0 Establishing Presumptive Penalties

17.1 The Penalty Table (Appendix E) identifies a “presumptive penalty” for each discipline level. The “presumptive penalty” is tied to the discipline level. Discipline level 1 has the lowest presumptive penalty, discipline level 2 has the second lowest presumptive penalty, with each successive discipline level having a greater presumptive penalty than those below it.

17.2 Presumptive penalties are generally presumed to be the reasonable and appropriate penalties that should be given. Having a presumptive penalty for each discipline level is beneficial for several reasons. First, by identifying an approximate center point for a range of likely disciplinary penalties for specified types of misconduct, it provides deputies with some notice of the likely consequences of their actions. Second, presumptive penalties promote fairness and a perception of fairness by establishing guideposts for imposing disciplinary sanctions and, as a result, place a measure of control on the Department’s discretion as to imposition of discipline. It is only when mitigating or aggravating circumstances are determined to exist and the weighing process described in section 22.0 is applied that a departure from the presumptive penalty may be justified. Even then, the penalty will remain within the mitigated or aggravated penalty ranges established for that particular discipline level unless “special circumstances,” as explained below (section 25.0), exist. The factors or circumstances that may result in a finding of mitigation, aggravation, or “special circumstances” shall be carefully and conscientiously considered.

18.0 Considering Prior Violations that Mandatorily Increase Discipline Levels

18.1 The DSD disciplinary matrix system, which is consistent with the principles of progressive discipline found in the Career Service Rules, addresses repeated violations of the same offense or offenses of an equal or greater conduct category by raising discipline levels when the second and subsequent offenses fall within specified timeframes. This is set out in the Categories, Violations, and Discipline Level Assignments Table (Appendix E). Once the current violation is sustained, a review of a deputy’s disciplinary history will determine whether the current violation is a “first” violation or whether there have been prior violations involving misconduct that falls into an equal or greater conduct category within the prescribed timeframe. The timeframes are as follows:

18.1.1 Violations of rules falling into Category A have a limitation of 3

years.

18.1.2 Violations of rules falling into Category B have a limitation of 4 years.

18.1.3 Violations of rules falling into Category C have a limitation of 5 years.

18.1.4 Violations of rules falling into Category D have a limitation of 7 years.

18.1.5 Violations of rules falling into Categories E and F have no time limitations.

18.2 Calculating the Timeframe for Considering Prior Violations – For the purpose of calculating the above timeframes, the date of prior violations being considered is the date of imposition of discipline by the Executive Director of Safety or the date of the issuance of a reprimand by the Sheriff. The date of the current violation is the date on which the misconduct occurred. However, where an incident of misconduct involves multiple rule violations or multiple acts of related misconduct, the date of violation shall be considered the date on which the earliest act of misconduct occurred. For example, where a prior violation gave rise to an internal investigation and, during that investigation, a deputy knowingly gave a materially false statement in violation of RR-200.4.2, for the purposes of this section, the date of occurrence for the violation of RR-200.4.2 shall be considered the date upon which the initial misconduct giving rise to the investigation occurred.

18.3 For violations within the applicable time period that occurred prior to the implementation of the discipline matrix system, the conduct category to be assigned to the prior violation shall be the specific conduct category currently assigned to that violation.

18.4 When the prior violation is one that now could fall into more than one conduct category under the matrix system, the analysis detailed in section 15.0 above shall be used to determine the appropriate conduct category for the prior violation.

18.5 For the purpose of determining prior violations that will increase the discipline level, multiple rule violations arising from a single prior incident shall be considered as only one prior violation. The highest conduct category of this prior violation shall be used to determine whether the current discipline level must be increased.

18.6 The use of prior sustained violations involving an equal or higher conduct category within the specified time period to increase the discipline level on the matrix is intended as a form of progressive discipline. These prior violations operate to mandatorily increase the discipline level and the corresponding presumptive penalty. This increase in discipline is not discretionary. These mandatory increases in the discipline level are different from the discretionary

prior sustained violations that may be considered “aggravating factors or circumstances” as explained in sections 19.0 and 21.0 below.

- 18.7** Prior violations of former rule 300.27 Collective Bargaining Fair Share Fee will not be considered when looking at prior violations. This violation was, at one time, considered a category F violation. While this rule was sustained many times, at no point has a deputy been terminated, or suspended for 90 days as called for under category F. Generally, this was treated as a category B violation. Additionally, the Supreme Court decision in the *Janus* case made the collection of fair share fees unlawful. As a result, these violations will not be considered as a prior violation when reviewing a deputy’s disciplinary history.

19.0 Consideration of Mitigating and Aggravating Circumstances

- 19.1** The penalty imposed may be increased or decreased, based upon mitigating or aggravating circumstances. A range for mitigated penalties appears on all eight discipline levels except level one; and a range for aggravated penalties appears on all discipline levels except level eight. Those ranges provide deputies with notice of possible consequences of their actions and establish parameters for the Department’s imposition of discipline – thus, serving the same goals as do presumptive penalties.
- 19.2** In determining whether mitigating and aggravating circumstances exist, the reviewer may look to the misconduct itself, the history of the deputy involved in the misconduct, or any other circumstance that might justify a departure from the presumptive penalty.³
- 19.3** The mitigating and aggravating circumstances considered must be documented.
- 19.4** In determining mitigating and aggravating circumstances, care should be used to ensure that a potentially mitigating or aggravating factor has not already been taken into consideration in the definition of the specific conduct category into which the violation falls or the definition/elements of the specific violation that has been sustained.
- 19.5** Mitigating circumstances may justify a penalty less than the presumptive. However, the presence of mitigating circumstances does not automatically require the imposition of a penalty in the mitigated range. The reviewer must first perform the weighing process in section 22.0. In addition, the presence of mitigating circumstances cannot support a penalty less than the mitigated range for that discipline level unless there are specified special circumstances as described below. (See section 25.0)

³ As noted elsewhere in this Handbook, it would be impossible to pre-determine all the factors that might be considered mitigating or aggravating in a particular case. However, as a general rule, facts and circumstances that may impact procedural processes only, such as factors that might contribute to delays in the timeliness of the investigative or review process of a case, shall not be considered in determining mitigation or aggravation.

19.6 Mitigating circumstances may include, but are not limited to:

- 19.6.1 Willingness to accept responsibility and acknowledge wrongdoing;
- 19.6.2 Circumstances under which the rule was violated;
- 19.6.3 The culpable mental state of the deputy in the commission of the violation;
- 19.6.4 Complimentary history, including awards, commendations, and positive public recognition;
- 19.6.5 If minimal, the severity of the current offense and the lack or minimal nature of any consequences caused by the current offense;
- 19.6.6 Prior work history, such as positive evaluations and/or work performance, or voluntary, advanced, job-related training; or
- 19.6.7 Minimal or lack of prior disciplinary history. This disciplinary history may also be viewed in relation to the deputy's years of service.
- 19.6.8 Objective indicators of rehabilitation.
- 19.6.9 Other circumstances believed by the subject deputy to be mitigating and presented during the course of the investigation or in the contemplation of discipline process.

19.7 The circumstances above are intended only as a guide in determining mitigating factors. It is impossible to list all the circumstances that might be considered mitigating in a particular case.

19.8 Aggravating circumstances may justify a penalty greater than the presumptive. However, the presence of aggravating circumstances does not automatically require the imposition of a penalty in the aggravated range. The reviewer must first perform the weighing process described in section 22.0. In addition, the presence of aggravating circumstances cannot support a penalty that exceeds the aggravated range for that discipline level unless there are specified special circumstances, as described below. (See section 25.0)

19.9 Aggravating circumstances may include, but are not limited to:

- 19.9.1 Injury or harm to a member of the public, a deputy, a detainee, or an employee;
- 19.9.2 Endangerment to a member of the public, a deputy, detainee, or an employee;
- 19.9.3 The existence of an actual and demonstrable legal or financial risk to the Department or the City (including, but not limited to, cases involving allegations of civil rights violations, unlawful search and seizure, inappropriate use of force, unlawful detention or arrest, or

improper care and treatment of an inmate);

- 19.9.4 The supervisory or command rank of the deputy who committed the violation (See section 20.0 below);
- 19.9.5 The deputy's prior disciplinary history (See section 21.0 below);
- 19.9.6 Actual and demonstrable prejudice to the Department;
- 19.9.7 Jeopardizing the Department's mission and/or relationship with other agencies;
- 19.9.8 Loss or damage to city or private property;
- 19.9.9 A criminal conviction of the involved deputy arising out of the underlying event;
- 19.9.10 Lack of candor, or lack of completeness or full disclosure on the part of the deputy;
- 19.9.11 Prejudicial conduct regarding race, color, creed, national origin, ancestry, gender, sexual orientation, age, religion, political affiliation, physical or mental disability, military status, marital status, immigration status, or other protected classifications;
- 19.9.12 Harassment or retaliatory conduct;
- 19.9.13 The culpable mental state of the deputy in the commission of the violation; or
- 19.9.14 Unsatisfactory work history.
- 19.9.15 Unwillingness to accept responsibility and/or acknowledge wrongdoing

19.10 The above potential aggravators are intended as a guide only. It is impossible to list all the circumstances that might be considered aggravating in a particular case.

20.0 Rank as an Aggravating Factor

20.1 The rank of a deputy is not used in any determination of whether or not a violation should be sustained, unless that rank is an element of the violation alleged.

20.2 However, the supervisory/command rank of a deputy who committed a violation may be considered a factor in aggravation that may warrant a penalty higher than the presumptive penalty for that violation. It is appropriate for the Department to have higher expectations for supervisors and command officers than for subordinate deputies. Further, it is appropriate for the Department to

expect that a supervisor or command officer should exercise better judgment and greater restraint than a subordinate deputy. Supervisors and commanders are expected to lead by example. They are responsible for holding others accountable and should likewise be accountable.

- 20.3** Nevertheless, the rank of an officer, like other arguably aggravating factors, must be weighed in relation to all other factors to determine its significance. It should not be regarded as an “automatic” aggravator.
- 20.4** A supervisor or command officer’s prior complimentary history, including awards, commendations, positive public recognition, and prior work history (such as positive evaluations and exceptional work performance), should not be ignored as potential mitigating circumstances when considering the appropriate penalty.

21.0 Prior Disciplinary History as a Discretionary Aggravating Factor

- 21.1** A deputy's prior disciplinary history not already used to mandatorily increase the discipline level (for example, a prior sustained violation in a conduct category lower than the present violation) may be considered in determining whether the disciplinary sanction should be increased from the presumptive penalty to the aggravated range. It may also be considered in determining whether special circumstances exist justifying a penalty in excess of that allowed under the matrix up to and including involuntary demotion with a reduction in pay or dismissal.
- 21.2** As with any other potentially aggravating factor, the reviewer must determine the weight or significance of the history. Factors that may be considered in the weighing process include, but are not limited to:
 - 21.2.1 The nature and seriousness of any prior violation;
 - 21.2.2 The number of prior violations;
 - 21.2.3 The length of time between prior violations and the current case;
 - 21.2.4 The relationship between any prior violation and the present misconduct;
 - 21.2.5 Whether the prior history demonstrates a repetition or pattern of the same or similar misconduct; and
 - 21.2.6 Whether the prior history demonstrates repeated misconduct, even if minor, evidencing a failure to conform to rules or to correct said behavior.
- 21.3** Remoteness – Where there has been an appreciable amount of time between the prior and present misconduct and the prior misconduct was minor, the prior misconduct should not be considered as an aggravating factor. An exception to this rule would be where the prior misconduct, even if remote or minor, evidences repeated, continuous, or pattern misconduct.

22.0 Weighing Mitigating and Aggravating Factors

- 22.1** As noted earlier, the presence of possible mitigating or aggravating factors does not lead automatically to the conclusion that a departure from the presumptive penalty is justified. The factors must be weighed against each other and against the misconduct in question. The presence of one or more mitigating circumstances along with one or more aggravating circumstances may or may not justify the imposition of the presumptive penalty, depending upon the weight given to the mitigating and aggravating circumstances.
- 22.2** The concept of “weighing” basically means determining how significant or insignificant the factors are when compared to each other and to the misconduct in question. This is not a simple process of counting the number of mitigators or the number of aggravators. Nor is it an attempt to assign a certain numerical “weight” to each factor considered. It is a determination of whether or not the factors are sufficiently significant to justify a decrease or increase in the presumptive penalty.
- 22.3** In this weighing process, consideration must be given to the nature and gravity of the misconduct; the harm, injury, or prejudice arising from the misconduct; the impact of the misconduct on Department guiding principles; and the specific purposes of discipline to be achieved in the case.
- 22.4** As a general rule, the absence of any mitigating factors should not be considered aggravating. Likewise, the absence of any aggravating factors should not be considered mitigating.
- 22.5** The reviewer’s consideration of mitigating or aggravating circumstances and their relative significance or insignificance must be documented.

23.0 Deleted

24.0 Policy of Maximum Suspension of 90 Calendar Days

- 24.1** The Executive Director of Safety and Sheriff have instituted a policy of a 90-day maximum suspension in cases where lengthy suspension as opposed to dismissal is considered the appropriate penalty. The Executive Director of Safety has determined that the purposes of discipline and the interests of the Department, the disciplined deputy, and the community are all sufficiently served by reasonable limits on the length of suspensions.

25.0 Special Circumstances

- 25.1** Any matrix system can be designed only for the large majority of cases. On occasion, there will be extraordinary circumstances that justify a penalty less than or greater than that allowed under the matrix. This is what is generally referred to as “going outside the matrix.” The authority to do so is within the sound discretion of the Sheriff and Executive Director of Safety when doing so is reasonable and necessary to promote fairness. A properly functioning matrix

system cannot be so rigidly applied as to mandate a certain sanction or limit a certain sanction where doing so would lead to an unfair result or fail to reflect the totality of the particular circumstances.

25.2 These issues will generally arise in the following situations:

25.2.1 Cases involving extraordinary mitigation;

25.2.2 Cases involving extraordinary aggravation;

25.2.3 Cases involving misconduct that justify an involuntary demotion with a reduction in pay; or

25.2.4 Cases involving misconduct that justifies dismissal, even though dismissal is not the presumptive or aggravated penalty indicated by the matrix.

25.3 Extraordinary Mitigation

25.3.1 If the Sheriff, Executive Director of Safety, or any other reviewer making a recommendation believes that the facts and circumstances of a particular case warrant a penalty less than the mitigated penalty allowed for in the matrix, a lesser penalty may be recommended or imposed.

25.3.2 In order to impose a penalty less than the mitigated penalty established in the matrix, it must be concluded that the matrix fails to appropriately address the conduct, issues specific to the case, or issues specific to the deputy such as his/her performance, disciplinary history, etc. This could include a factor in mitigation that is so extraordinary that the mitigated penalty established in the matrix would be unfair or would not reflect the totality of the circumstances.

25.3.3 The reasons for departing downward from the minimum penalty established in the matrix and the basis for determining the penalty resulting from the extraordinary mitigation must be documented and explained.

25.4 Extraordinary Aggravation

25.4.1 If the Sheriff, Executive Director of Safety, or any other person making a recommendation believes that the facts and circumstances surrounding a particular case warrant a penalty greater than that allowed for in the matrix, the following are available:

25.4.1.1 Suspension of up to 90 calendar days;

25.4.1.2 Involuntary demotion with a reduction in pay; or

25.4.1.3 Dismissal, regardless of whether dismissal is the

presumptive or aggravated penalty specified in the matrix for the current violation.

- 25.4.2 To recommend or impose a penalty greater than the maximum penalty established in the matrix, it must be concluded that the matrix fails to appropriately address the conduct, issues specific to the case, issues specific to the deputy (such as his/her performance, disciplinary history, etc.), or causes harm greater than would reasonably be expected to result from the misconduct. This could include a factor in aggravation that is so extraordinary that, if the maximum penalty established in the matrix were to be imposed, that penalty would be inadequate to address the purposes of discipline or to reflect the gravity of the circumstances. The reasons for departing upward from the maximum penalty called for in the matrix as well as the basis for determining the particular penalty must be documented and explained.
- 25.4.3 Listed below are factors to consider in determining whether extraordinary aggravation exists that would warrant the imposition of discipline above the aggravated penalty range established in the matrix and could result in a penalty up to and including dismissal. These factors include, but are not limited to:
- 25.4.3.1 Commission of a series of acts that constitutes a course of conduct characterized by a continued inability or unwillingness on the part of the deputy sheriff to conform to expected standards of conduct;
 - 25.4.3.2 Commission of an act or acts that clearly cause a continuing, disruptive effect on the efficient and/or safe operations of the Department or clearly constitute a substantial risk to public safety;
 - 25.4.3.3 Commission of an act or acts that cause harm greater than would reasonably be expected to result from such act(s).
 - 25.4.3.4 Commission of an act or acts that call into serious question the deputy sheriff's trustworthiness and/or integrity so as to interfere with the continued performance of his or her assigned duties and responsibilities or that demonstrate a serious lack of the ethics, character, judgment, or fitness necessary to hold the position of deputy sheriff;
 - 25.4.3.5 Commission of an act or acts that have had or may be reasonably demonstrated to have an appreciable negative effect on the general public's confidence and/or trust in the operations of the Department; or
 - 25.4.3.6 Commission of an act or acts that create a serious legal or financial risk for the Department or the City or as a

result of which, retention of that deputy could create a serious legal or financial risk for the Department or the City.

25.5 Involuntary Demotion with a Reduction in Pay

- 25.5.1 Involuntary demotion with a reduction in pay of a deputy sheriff may be imposed if it is determined that a deputy sheriff lacks the ability, willingness, or suitability to perform in the current rank. Involuntary demotion with a reduction in pay reflects the determination that a deputy sheriff has demonstrated by his/her misconduct that he/she is unfit to fulfill the responsibilities and duties required for his/her current position at the specific rank.
- 25.5.2 In making a decision to recommend or impose an involuntary demotion with a reduction in pay, the reviewer should consider the effect on the organization of maintaining the deputy sheriff in his/her current position. If the commission of the violation prior to attaining the current rank would have raised substantial questions as to the deputy sheriff's fitness to hold that rank in the first place, an involuntary demotion with a reduction in pay may be considered.
- 25.5.3 The importance of the ability to perform the duties and responsibilities of the rank in a credible and professional manner cannot be minimized. Additionally, supervisory and command officers must lead by example and maintain a culture in which subordinate sheriff deputies will "behave with prudence, justice, courage, intellectual honesty, responsibility, self-effacement of interests and trustworthiness and where these virtues can be continuously exercised as standard operating procedure." (See Ethics, Integrity and the Police Culture, Swope, International Criminal Police Review – No. 483 (2001))
- 25.5.4 An involuntary demotion with a reduction in pay may be imposed in conjunction with, or in lieu of, other appropriate disciplinary sanctions.

25.6 Dismissal

- 25.6.1 It must be universally recognized that certain acts of misconduct are so serious that the appropriate penalty is dismissal even for a first offense. This may result from the severity of the act, the harm the misconduct causes to the Department or public, or a determination that a lesser penalty would depreciate the seriousness of the offense. In other circumstances, dismissal may be an option when there have been repeated acts of misconduct. Repeated misconduct may result in dismissal when it is clear that lesser corrective or punitive actions are not likely to be effective or to depreciate the seriousness of the offense. Repeated acts of misconduct may also result in dismissal where the pattern of conduct gives rise to a demonstrable concern of future civil liability on the part of the Department or the City.

- 25.6.2 Dismissal, while a disciplinary option to be used only after careful deliberation, provides a necessary management tool for dealing with the most serious acts of deputy misconduct. Dismissal may be necessary: (i) to punish the deputy sheriff; (ii) to protect the public and the Department from the risk of future serious misconduct (iii) to address acts that are indicative of a deputy sheriff's inability to continue serving in a position of trust; or (iv) to address the commission of certain acts of misconduct that have caused such damage to the Department that the continuation of employment would prevent the Department from effectively performing its mission in the community or the retention of the deputy sheriff would constitute deliberate indifference to the duty of the Department to protect the public. Although the Career Service Rules indicate that, whenever practicable, discipline shall be progressive, the rules specifically contemplate dismissal under circumstances such as those above. Therefore, any measure of discipline may be used in any given situation as appropriate; and progressive discipline need not be taken before an employee may be dismissed. (See CSA Rule 16-42)
- 25.6.3 As noted above, the factors listed with regard to extraordinary aggravation apply equally to the issue of whether dismissal may be appropriate. (See section 25.4)

26.0 Assessing the Seriousness of Misconduct, the Harm Arising from that Misconduct, and the Causal Connection Between the Conduct and the Harm for the Purposes of Determining the Appropriate Conduct Category and the Weight to be Given to Mitigating and Aggravating Circumstances, or Consideration of “Special Circumstances”

- 26.1 In assessing the seriousness of any conduct/violation, a reviewer should carefully consider the following questions:
 - 26.1.1 What is the purpose of the rule or policy that forbids the conduct?
 - 26.1.2 What is the “harm” against which the rule or policy is intended to guard?
 - 26.1.3 What is the overall effect of the misconduct on the goals, guiding principles, operation, image, or professional standards of the Department?
- 26.2 When assessing the “harm” or “risk of harm” that arises from a particular violation, the term “harm” is not limited to physical injury. “Harm” is intended to apply to any demonstrable wrong, prejudice, damage, injury, or negative effect/impact that arises from the violation.
- 26.3 In certain instances, conduct is categorized based, in part, upon the foreseeable harm or injury that arises from the conduct (for example, conduct that foreseeably results in serious bodily injury). In determining whether the

injury or harm “results” from the conduct, caution must be used to determine whether there is a sufficient causal connection between the conduct and the foreseeable result in order to justify holding the subject deputy accountable for the result.

- 26.4** In determining the causal connection between a deputy’s violation and the result, the violation may be based upon a deputy’s act (for example, inappropriate force that causes serious bodily injury) or a deputy’s omission or failure to act (for example, an intentional violation of RR-200.17.2 - Failure to Aid and Protect Fellow Deputy).
- 26.5** When determining whether the “results” of a violation were “foreseeable,” caution must be used to consider whether the harm, risk of harm, or result was known to, or reasonably should have been anticipated by, the deputy at the time of the violation. In determining foreseeability, the reviewer must look to all the facts and circumstances known or that reasonably should have been known to the deputy at the time of the violation.
- 27.0** **Disciplinary Recommendations made to the Sheriff and the Executive Director of Safety**
- 27.1** The Executive Director of Safety is charged with the responsibility of ordering all discipline issued to uniformed members of the Denver Sheriff Department greater than a reprimand (while the Executive Director has delegated authority to issue reprimands to the Sheriff, the Executive Director is not precluded from issuing reprimands). Consequently, all input into the issue of whether or not a deputy has violated a Departmental rule or policy and, if so, what the appropriate sanction should be, are in the form of recommendations to the final decision maker. Likewise, any findings made by the Sheriff with regard to those same issues are also in the form of recommendations to the Executive Director of Safety. No provision of the City Charter or Career Service Rules requires the final decision maker to follow any recommendation or to give “due weight” to them; and failure to follow any particular recommendation is not grounds for appeal.
- 27.2** Disciplinary recommendations are intended to inform the Executive Director’s and Sheriff’s decision-making process.
- 27.3** Disciplinary recommendations and their underlying rationale are part of the City’s deliberative process. The Department may develop policies and procedures to limit access to, keep confidential, or otherwise protect recommendations and rationales from disclosure except as required by law or to the extent necessary to facilitate decision making at various stages of the disciplinary process. Among other things, keeping the recommendations and rationales confidential encourages candid and thorough discussion of issues and alternatives; provides the final decision maker with better and more advice; and results in better disciplinary decisions as a whole.

28.0 Temporary Reductions in Pay (TRIPs)

28.1 In lieu of a suspension, the Sheriff may issue a temporary reduction in pay as permitted by Career Service Rules. The amount of reduction and number of pay periods will be set to, as close as reasonably possible, equal the pay loss to suspension for the same violation. For example, if the rule violation calls for a 2-day suspension, the Sheriff may opt for a 10% reduction in pay for two pay periods, a reduction in pay equivalent to 16 hours.

28.2 The use of TRIPs is at the discretion of the EDOS and Sheriff. In making the determination of whether to issue a TRIP rather than a suspension the EDOS and Sheriff may consider the needs of the Department including overtime considerations, the difficulty in back-filling specialty positions, the severity of the infraction, or any other relevant factors.

29.0 Contemplation of Discipline Process

29.1 The rules governing the contemplation of discipline process are set forth in the Career Service Rules. The Executive Director delegates the authority to the Sheriff or designee to oversee, schedule, and facilitate the contemplation of discipline meeting. The Sheriff will develop the processes and procedures for the contemplation of discipline meeting in accordance with CSR 16.

30.0 The Role of the Sheriff in the Disciplinary Process

30.1 It is the responsibility of the Sheriff to oversee the administrative disciplinary process to make decisions and enter orders with regard to matters ancillary to discipline, to conduct the contemplation of discipline meeting, and to preside over the resulting deliberations. Both the Sheriff and EDOS possess the authority to issue reprimands.

30.2 The Sheriff shall make findings as to each rule violation considered and shall determine the discipline he/she believes to be appropriate by applying the principles, guidelines, and procedures detailed herein. In determining the appropriate discipline, the Sheriff shall be guided by the general rule that the penalties shall be imposed consecutively. However, in appropriate cases, the Sheriff may recommend that penalties be run concurrently as set forth in more detail in sections 32.7 through 32.9 below.

30.3 In accordance with Career Service Authority Rule 18 Dispute Resolution, Section 18-30 Grievance Procedure, members of the Denver Sheriff Department may file a grievance regarding the issuance of a written reprimand. Prior to consideration of granting the appeal of a written reprimand, the Sheriff will consult with the Civilian Review Administrator, the Office of the Independent Monitor and the City Attorney's Office representative.

- The Sheriff will notify the OIM within two business days of receiving a grievance related to written reprimands. If the Sheriff Decides to overturn or rescind the imposed written reprimand:
- The Sheriff will articulate in writing the reasons for the decision using the facts of the case and criteria established in the DSD Discipline Handbook; and

- The Sheriff will provide the OIM with the draft response and within three business days, the OIM will provide a recommendation before the response is sent to the deputy.

31.0 The Role of the Independent Monitor

31.1 The Office of the Independent Monitor (OIM) was created by City to provide fair and objective professional civilian oversight of the uniformed personnel of the Police and Sheriff Departments and to ensure public confidence in the ability of these Departments to police themselves.

31.2 The OIM is responsible for:

- 1.) Actively monitoring and participating in investigations of uniformed personnel in the City and County of Denver's Police and Sheriff Departments;
- 2.) Making recommendations to the Chief of Police, the Sheriff and EDOS regarding administrative actions, including possible discipline for such uniformed personnel; and
- 3.) Making recommendations regarding broader policy and training issues.

31.3 The OIM has created policies to ensure that the complaint and commendation process is accessible to all members of the community. As such, community members and inmates can file complaints and commendations through the OIM. The OIM refers these complaints and commendations, as appropriate, to the AIU and to Department supervisors. Once complaints are received, the OIM works with AIU management to ensure timely and thorough formal investigations by engaging in a triage process. Complaints that do not require a formal investigation may be filtered out of the traditional AIU process by declining complaints that do not need further investigation, assigning complaints to the Monitor's community-law enforcement mediation program, if appropriate, and assigning complaints to command staff for their review and handling (without the imposition of discipline).

31.4 The OIM actively monitors some AIU investigations and reviews all formal investigations to ensure they are thorough and objective. The OIM makes recommendations to the Executive Director of Safety and the Sheriff regarding the reasonableness of disciplinary findings and penalties.

31.5 The OIM is empowered by ordinance to have access to the proceedings of Departmental boards involved in the disciplinary process. As such, the OIM is empowered by Department policy to attend all contemplation of discipline meetings and participate and make recommendations in deliberations. The information learned by attending and participating in these deliberations is used by the OIM to evaluate the appropriateness of any findings and disciplinary recommendations.

- 31.6** In carrying out its duties, the OIM, like all others involved in the investigation and review of allegations of misconduct, follows the provisions of these Conduct Principles and Disciplinary Guidelines, including the discipline matrix. The Executive Director of Safety and Sheriff shall consider, but are not bound by, any recommendations made by the OIM.

32.0 The Role of the Executive Director of Safety in Imposing Discipline

- 32.1** The Executive Director of Safety is responsible for ordering all discipline of sworn personnel, with the exception of reprimands, in the Denver Sheriff Department. (As previously noted, both the Executive Director and Sheriff may issue reprimands.)
- 32.2** The Executive Director of Safety reviews the contemplation of discipline letter containing a summary of the facts, the deputy's disciplinary and commendation history, the audio recording of the contemplation of discipline meeting (or the Executive Director may elect to attend the contemplation of discipline meeting)⁴ held by the Sheriff, and a listing of the possible rule violations. The Executive Director will be provided with the entire investigative file and may review it, in whole or in part. The recommended finding as to each violation is listed along with the recommended penalty as to each. The investigative file may also contain recommendations from commanding officer(s). The Executive Director shall consider the recommendations of the Sheriff as well as any other recommendations including those of the OIM, but is not bound by them.
- 32.3** In determining his/her findings as to whether or not any of the violations should be sustained and, in determining the appropriate discipline, the Executive Director must follow the same rules and instructions followed by all other reviewers.
- 32.4** If the Executive Director of Safety finds that there are insufficient facts or information to make a final determination of appropriate discipline, he/she may return the case for further investigation or otherwise order that the facts or information be provided.
- 32.5** The Executive Director may also include additional rule violations for consideration: (i) prior to the contemplation of discipline meeting; or (ii) after the contemplation of discipline meeting but prior to final discipline being served on the subject deputy. If additional rule violations are added after the contemplation of discipline meeting, the subject deputy is entitled to a new contemplation of discipline hearing to address the new charges. However, the deputy may elect to waive the issuance of a new contemplation of discipline letter and a new contemplation of discipline meeting.
- 32.6** Determining the Appropriate Discipline – In determining the appropriate discipline, the Executive Director of Safety must follow the same rules, principles, and guidelines, including the matrix, followed by other reviewers. The Executive Director must determine the conduct category, the discipline level, and the presumptive penalty for each violation. He/she must consider

whether any relevant disciplinary history within the specified time period justifies an increase in the discipline level and, as a consequence, the corresponding presumptive penalty. The Executive Director must then consider whether there are any mitigating or aggravating circumstances that justify the imposition of a penalty in the mitigated or aggravated ranges of the appropriate discipline level. The Executive Director shall also consider whether there are any special circumstances, such as extraordinary mitigation or extraordinary aggravation, that would justify a lesser or greater penalty than that allowed by the matrix. Finally, in appropriate cases, he/she shall consider whether there are any special circumstances that justify an involuntary demotion with a reduction in pay or dismissal, even though dismissal is not the presumptive or aggravated penalty listed by the matrix.

- 32.7** Penalty as to Each Rule Violation Sustained – The Executive Director shall impose a separate penalty for each violation sustained. As a general rule, penalties shall be imposed consecutively, except as noted in sections 32.8 through 32.10 below. However, where suspension is determined to be the most appropriate penalty for one or more sustained violations, the total suspension shall not exceed 90 calendar days.
- 32.8** Avoiding the Impact of “Stacking” – “Stacking” is defined as, and occurs when, the Executive Director sustains multiple rule violations arising from the same conduct and discipline is issued consecutively for rules that cover the same misconduct. A balanced disciplinary system should impose fair and appropriate discipline based upon the nature of the misconduct and not simply upon the number of rule violations that could arguably be charged and sustained. Discipline should be generally based upon the most specific violation(s) possible to adequately address the misconduct. In fashioning a final order of discipline in cases in which there are multiple rule violations and all the penalties will run consecutively, the Executive Director must ensure that each rule violation addresses separate and distinct conduct or addresses a different aspect of, or a different harm arising from, the same conduct. Rule violations that are only alternative theories of addressing the same conduct, while appropriate to include in a contemplation of discipline letter or a final notice of discipline letter, should not operate so as to increase the penalty. Therefore, multiple sustained violations that are merely alternative theories of addressing the same conduct should run concurrently with the most serious violation. Thus “stacking” does not occur when disciplinary penalties for rule violations arising from the same conduct run concurrently.
- 32.9** To avoid unfair impact on the subject deputy or to otherwise further the interests of fairness and reasonableness, the Executive Director may elect to choose among the rule violations sustained, to impose disciplinary sanctions concurrent to each other, to hold penalties or portions of penalties in abeyance, or to otherwise fashion a disciplinary sanction that more appropriately addresses the nature and totality of the subject deputy’s misconduct while still reflecting the principles and purposes of discipline enumerated in this Handbook. The Executive Director has the discretion to sustain all similar rule violations or one violation that covers all misconduct.

⁴ The Executive Director and members of the Conduct Review Office may review the investigative file at any time and are not precluded from attending the contemplation of discipline meeting.

32.10 Maximum Suspension of 90 Calendar Days

32.10.1 Where the application of the matrix or any of the principles and guidelines supporting it results in a suspension in excess of 90 calendar days and dismissal or involuntary demotion with a reduction in pay is not otherwise appropriate, the Executive Director shall fashion the penalty so as to not exceed a 90-calendar day suspension.

32.11 Viewing Misconduct in Its Entirety – The Executive Director may impose a penalty greater or less than that provided for in the matrix when the conduct taken as a whole justifies a finding of special circumstances. If special circumstances are found, the Executive Director may impose a penalty less than that provided for by the matrix or may impose a suspension of up to 90 calendar days, an involuntary demotion with a reduction in pay, or dismissal.

32.12 Final Order of Discipline

32.12.1 The Executive Director shall enter the Final Order of Discipline. A copy of the Final Order of Discipline shall be maintained pursuant to established Department policy.

32.12.2 If the deputy was also deemed to have acted in bad faith and/or without reasonable belief that their conduct was lawful, the deputy will receive a letter from the Executive Director notifying them of the finding. Letters will not be issued for findings of good faith. These letters will be maintained pursuant to established Department policy.

33.0 Sources of Disciplinary Rule Violations

33.1 Rule violations are in essence administrative “charges” brought against subject deputy sheriffs as notice of the specific violations alleged. Throughout these Conduct Principles and Disciplinary Guidelines, sources of disciplinary rule violations have been variously referred to as Rules and Regulations, Career Service Rules, Mayor’s Orders, directives, policies, procedures, post orders, and the like. The use of one reference is not intended to exclude the other. Nor is the use of the references noted in this section intended to exclude any source upon which rule violations may be based.

34.0 Application Considerations Regarding Certain Areas of Misconduct – Definitions and Explanation of Terms

34.1 A number of areas of misconduct have been identified that may require special consideration in applying the matrix and the guidelines and principles contained herein. These areas are discussed in Appendix C. All persons who review cases or make disciplinary decisions involving violations related to these areas of misconduct should consult Appendix C for a better understanding of the issues involved. These areas include:

- 1) Untruthfulness
- 2) Conduct Prohibited by Law

- 3) Use of Inappropriate Force Against Individuals (Persons)
- 4) Use of Inappropriate Force Against Animals
- 5) Use of Force Reporting
- 6) Humiliating, Cruel, or Harassing Treatment of Prisoners
- 7) Erroneous Release
- 8) Physical Abuse of Prisoners
- 9) Sexual Misconduct
- 10) Sleeping on Duty, Conducting Rounds, Protecting Prisoners, and Attention to Duties
- 11) Misuse and Abuse of Leave Time, Feigning Illness, Unauthorized Leave, and Absent from Duty
- 12) Failure to Participate in Required Firearms Training
- 13) Conduct Prejudicial
- 14) Careless Handling of Firearms and Less Lethal Devices
- 15) Driving Violations Resulting in Injury or Death
- 16) Soliciting Preferential Treatment
- 17) Disobeying Lawful Orders, Conflicting Orders, and Unlawful Orders

34.2 Appendix C also contains definitions/explanations of terms that persons reviewing cases or making disciplinary decisions should be aware of. These include:

- 1.) Bodily Injury and Serious Bodily Injury
- 2.) References to the “Public,” “Community,” “Citizens,” or Similar Descriptions
- 3.) Deputy or deputy sheriff
- 4.) The “Rank of Deputy Sheriff”
- 5.) Employee
- 6.) Delegation of the Duties and Responsibilities of the Executive Director of Safety, Sheriff, and other Command Ranks
- 7.) References to “Rules and Regulations,” “Policies,” “Procedures,” and the Like

8.) References to “Detainees,” “Inmates,” and “Prisoners.”

35.0 Negotiated Settlement of Disciplinary Actions

- 35.1** Circumstances may arise that warrant settlement discussions between a deputy and the City. The Executive Director of Safety, DSD, and/or the City Attorney’s Office may engage in settlement discussions with a deputy (or his/her representative). Settlement negotiations are not a matter of right; and refusal by the Executive Director of Safety or City Attorney’s Office to enter into settlement discussions or to reach a settlement agreement cannot be a basis for appeal. Settlement agreements should not be discoverable nor admissible in administrative appeals.
- 35.2** Per D.R.M.C. 2-389, the Department of Safety and the DSD shall provide the OIM with reasonable notice and opportunity to comment prior to entering into agreements, whether written or oral, resulting in the closure of internal investigations or the disciplinary process;
- 35.3** Settlement, while permissible in appropriate cases, should occur only for legitimate purposes. All settlements must conform to the purposes and goals of these Conduct Principles and Disciplinary Guidelines.

36.0 Authority of the Executive Director of Safety to Revise Disciplinary Policies and Procedures.

- 36.1** The Executive Director of Safety has the responsibility of monitoring the effectiveness of the discipline system and making any revisions to these Conduct Principles and Disciplinary Guidelines and other departmental policies and procedures related to discipline.
- 36.2** The Executive Director of Safety may in his/her discretion establish any committee, task force, or other group to review and suggest changes to these Conduct Principles and Disciplinary Guidelines. However, any such group is advisory in nature and the authority to revise these guidelines and related policies remains with the Executive Director of Safety and may be exercised at any time without regard to the existence of any such group.
- 36.3** Substantive revisions to these Conduct Principles and Disciplinary Guidelines shall apply only to violations committed subsequent to the established effective date and publication of those revisions.

37.0 Application of these Conduct Principles and Disciplinary Guidelines

- 37.1** The substantive provisions outlined herein shall apply to alleged violations of Department rules, policies, etc. committed on or after the publication date.
- 37.2** Any amendments to these Conduct Principles and Disciplinary Guidelines or other policies and procedures related to discipline shall take effect only upon reasonable prior notice to all members of the Department.
- 37.3** In cases where a deputy has more than one pending discipline case, the case that was first reported to the AIU will be considered the first case for purposes

of calculation of discipline.

38.0 Confidentiality

38.1 All persons who are involved in the investigation and review of misconduct, recommend disciplinary findings or sanctions, make decisions at any stage in the disciplinary process, or otherwise participate in the administration of the disciplinary process, as well as their legal or Department representatives, and record keepers are obligated to keep disciplinary deliberations, recommendations, and rationales confidential except where:

- 1.) Disclosure is necessary for the administration of the disciplinary process;
- 2.) Approved by the Sheriff or Executive Director of Safety;
- 3.) In accordance with established Department policy and procedure; or
- 4.) Allowed by the rules of the Career Service Authority, the ordinances of the City and County of Denver, or any applicable state or federal laws.

39.0 Overtime

39.1 Deputies who are serving suspensions or subject to a TRIP may have their overtime restricted during the pay period(s) in which the suspension or TRIP is served. Determinations will be made on a case by case basis at the discretion of the Sheriff.

39.2 Deputies who work overtime while serving a TRIP will be paid overtime at the TRIP reduced rate of pay.

39.3 Deputies will not be excused from mandatory overtime while serving a TRIP.

Appendix A – Department Mission, Vision, and Guiding Principles



DENVER SHERIFF DEPARTMENT



MISSION

The mission of the Denver Sheriff Department is to provide safe and secure custody for those placed in our care and to perform all of our duties in a manner that is responsive to the needs of our diverse community

VISION

The Denver Sheriff Department is committed to being a model law enforcement agency by:

- Being dedicated to our employees, maintaining a department based on a solid foundation of open, honest communication, quality leadership, training and mutual support, and
- Earning the respect and the confidence of our diverse communities, by maintaining a covenant of public trust
- Being committed to best practices

GUIDING PRINCIPLES

- **Safety:** We continually maintain and improve core competencies and specialized skills so as to enable us to fulfill our obligation to protect department personnel, other law enforcement agencies, service providers, detainees and the public from harm.
- **Humanity:** We treat everyone humanely.
- **Ethics:** We set positive examples in both our personal and professional lives, and consistently behave in accordance with the highest standards expected of the law enforcement community.
- **Respect:** We acknowledge the dignity of every individual.
- **Integrity:** We demonstrate the highest standards of honesty and accountability in both our personal and professional lives.
- **Fiduciary:** We hold a position of trust and act at all times with the highest standard of care to those placed in our custody.
- **Fairness:** We treat everyone in a manner free from discrimination, favoritism and bias.
- **Service:** We work together to maintain an environment that fosters customer service and professionalism.



SHERIFF DEPARTMENT OF THE
CITY AND COUNTY OF DENVER
DENVER, COLORADO

COMMENT ON DEPARTMENT GUIDING
PRINCIPLES

APPENDIX B

UPDATED FEBRUARY 1, 2024

Approved by the
CITY ATTORNEY'S OFFICE
EXECUTIVE DIRECTOR OF SAFETY
SHERIFF

Appendix B – Comment on Department Guiding Principles

History of the Guiding Principles

Between 2013 and mid-2016, a number of significant events happened on the Denver Sheriff Department. As a result of concerns raised about numerous Department practices, the Department embarked upon a series of reviews and assessments designed to address those concerns. These included the creation of internal task forces (one of which was the Discipline Task Force), the employment of nationally recognized consultants to conduct a thorough review of the Department, the formation of “Action Teams” to implement recommendations resulting from the review, and the hiring of a new Sheriff. One significant recommendation that arose from the work of the Discipline Task Force was the need to revise the Department’s current guiding principles to reflect the Department’s obligation to treat inmates in a dignified, respectful manner. The revised edition of the guiding principles was drafted by the Discipline Sub-Group of the Internal Affairs/Use of Force Action Team and forwarded to the Sheriff for review, editing, and publication.

To accomplish its mission and to achieve its vision, the Department must be committed to these guiding principles. These principles represent the core values of the Department. All members of the Department, whether sworn or civilian, rank and file or supervisor/command, must embrace these guiding principles and strive to demonstrate them in their professional and private lives.

Safety

We continually maintain and improve core competencies and specialized skills so as to enable us to fulfill our obligation to protect from harm Department personnel, other law enforcement agencies, service providers, detainees, and the public.

Denver Sheriff Department members must ensure that the Department fulfills its obligation to protect the safety of its members, individuals in its care, custody, and control, and those individuals with whom it interacts on a daily basis. In order to do so, members must improve the core competencies and specialized skills that are necessary to fulfill their duties. It is incumbent upon law enforcement officers to embrace the high expectations and standards of their profession, and strive to continuously improve upon their abilities. The Department exhibits the highest standards of safety and care when its employees are motivated by the honor of authority bestowed upon them and recognize that the price of that honor is a commitment to excellence.

Employees must also, at all times, make reasonable decisions based on common sense and good judgment. Judgment is important to the Department and the community because the Department must rely upon its employees’ good judgment to ensure a safe and secure environment for all.

Humanity

We treat everyone humanely.

Humanity demands that Department employees treat others the way they themselves would wish to be treated. It recognizes the oftentimes difficult people and situations with which employees are faced but also requires the exercise of compassion and concern in dealings with such people and situations. Humanity reinforces the essential principle that all people deserve to be heard and valued. When it is sensitive to these needs, the Department enhances its understanding of its own employees and the community it serves. In creating Humanity as a core guiding principle, the Department emphasizes the need for employees to see each person with whom they interact as a human being, deserving of the same consideration as any other human being, regardless of the circumstances.

Ethics

We set positive examples in both our personal and professional lives and consistently behave in accordance with the highest standards expected of the law enforcement community.

As members of the Denver Sheriff Department, employees are always expected to comply with the provisions of this Handbook. The community looks to its law enforcement officers as paradigms of excellence and ethical behavior, irrespective of whether the officers are in or out of uniform. It is important that law enforcement officers be model citizens in both their personal and professional lives in order to reinforce the trust, respect, and faith that the community places in them.

Respect

We acknowledge the dignity of every individual.

The hallmark of respect is giving courteous, considerate, and fair treatment to everyone. It requires that the Department acknowledge the dignity of each individual with whom the Department has contact and act in an appropriate and honorable way in dealings with every person.

Respect is a two-way street. When the Department commits to respectful treatment in all of our interactions, that respect is returned to us and to the Department as a whole.

Integrity

We demonstrate the highest standards of honesty and accountability in both our personal and professional lives.

Each employee of the Department is expected to demonstrate integrity through honest communication and acceptance of personal responsibility. Integrity means acting out of a sense of moral principle and having the courage to do the right thing. Employees with integrity are those whose word can be trusted and whose decisions are fair and equitable.

Integrity is the cornerstone of the public's trust of the Department and is essential to the creation of partnerships within the community. It is also the foundation for belief in, and respect for, the Department. Denver Sheriff Department employees are in a unique position to increase the trust and confidence of both the public and the inmate community by acting with integrity.

Integrity creates a greater awareness of proper behavior. It helps to guide decisions and increases employees' awareness and understanding of the ethical conduct required of them. A lack of integrity can have severe consequences, including corruption, bias, ineffectiveness, loss of respect, and undermining everything that the Department values.

Fiduciary

We hold a position of trust and act at all times with the highest standard of care to those placed in our custody.

A fiduciary is a person who holds a legal or ethical relationship of trust with another person. In a fiduciary relationship, one person vests confidence, good faith, reliance, and trust in another whose aid, advice, or protection is sought. In such a relationship, the fiduciary is required to act at all times for the benefit and in the interest of the one who trusts. It necessitates the use of prudent discretion and sound judgment. A "fiduciary duty" is the highest possible standard of care.

It is understood that a fiduciary relationship exists between a deputy and inmate because that inmate relies entirely on the deputy for basic daily needs and protection. Denver Sheriff Department deputies are, at all times, entrusted with the protection and care of the members of the Community to whom the Department owes such an important duty.

Fairness

We treat everyone in a manner free from discrimination, favoritism, and bias.

Department members are objective, accessible, tolerant, flexible, and adaptable. Members listen to others' points of view and strive for open communication and willingness to compromise. The Department commits to equitable, just, and impartial treatment of all people.

Fairness is one of the cornerstones of justice and creates a foundation of trust and respect. Trust and the expectation of fair treatment makes employees safer in all facets of their work and encourages the cooperation of all those in contact with the Department as well as those within the Department.

Service

We work together to maintain an environment that fosters customer service and professionalism.

The Department looks to all commanders, supervisors, and deputies to ensure our services are delivered professionally and collaboratively, inside and outside its facilities. Professionalism is crucial to ensuring that the Department fulfills its obligation to protect the lives and safety of individuals in its care, custody, and control, as well as all members of the Department and public.

To maintain a Department that increases organizational effectiveness, members must also strive to work as a team with staff, service providers, and detainee populations. Teamwork is critical to the community and the Department because it increases safety, improves operational efficiencies, and fosters a positive working environment. Teamwork elevates the professionalism of the Department, enhances decision-making, and better achieves goals, based upon a collaborative effort that strives for excellence and continued self-improvement.



SHERIFF DEPARTMENT OF THE
CITY AND COUNTY OF DENVER
DENVER, COLORADO

APPLICATION CONSIDERATIONS REGARDING CERTAIN AREAS
OF MISCONDUCT- DEFINITIONS AND EXPLANATION OF
TERMS

APPENDIX C

UPDATED FEBRUARY 1, 2024

Approved by the
CITY ATTORNEY'S OFFICE
EXECUTIVE DIRECTOR OF SAFETY
SHERIFF

Application Considerations Regarding Certain Areas of Misconduct – Definitions and Explanations of Terms

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Application Considerations Regarding Certain Areas of Misconduct – Definitions and Explanation of Terms

Untruthfulness

“Integrity” (which includes honesty) and “Ethics” are guiding principles of the Denver Sheriff Department. (See Appendix B). Avoiding any deception or misrepresentation and telling the complete truth are necessary to ensure honesty in the Department. There is no basis for respect or trust without honesty. If the Department fails to demand honesty, it breaks faith with the public and its own employees. The Department must reinforce the guiding principles of Integrity and Ethics with its actions, words, and conduct. Integrity/honesty must be expected of everyone, from the Sheriff to the newest deputy, employee, or recruit.

The Department does recognize though that not every discrepancy between a deputy’s report or other statement, on the one hand, and a video or another individual’s report or other statement, on the other hand, necessarily establishes that the deputy’s report or other statement was knowingly false or misleading. The Department must look at the totality of the circumstances, including the credibility of witnesses, to identify knowing falsifications or intentional omissions.

DSD has two discipline rules that directly address untruthfulness: RR-200.4.1 and RR-200.4.2.

RR-200.4.1 – Knowingly Making Misleading or Inaccurate Statements

Provides:

Deputy Sheriffs and employees shall not knowingly make a misleading or inaccurate statement relating to their official duties.

Thus, RR-200.4.1 imposes on deputies and employees the duty not to knowingly make misleading or inaccurate statements relating to their official duties at any time.

“Knowingly,” for purposes of both RR-200.4.1 and RR-200.4.2 means being aware of the nature of the conduct. It refers to general intent with respect to conduct, not with respect to a circumstance or a result of conduct (and, therefore, not as defined in C.R.S. §18-1-501(6)). Accordingly, the nature of the deceptive conduct is untruthful representation. In other words, at the time the deputy makes the statement, the deputy must know that his/her statement is misleading or inaccurate but need not know what the result or consequence of the misleading or inaccurate statement will be.

Notwithstanding the fact that DSD takes untruthfulness by its deputies very seriously, the Executive Director of Safety and Sheriff have concluded that, if proven, a misleading or inaccurate statement, knowingly made, need not automatically lead to a deputy’s dismissal. Consequently, RR-200.4.1 is assigned to conduct categories D – F.

RR-200.4.2 – Commission of a Deceptive Act

Provides:

In connection with any investigation or any judicial or administrative proceeding, deputy sheriffs and employees shall not knowingly commit a materially deceptive act including, but not limited to, verbally departing from the truth, making a false report, or intentionally omitting information.

Thus, RR-200.4.2 addresses materially deceptive acts including, but not limited to, untruthful statements and intentional omissions that impact any investigation or judicial or administrative proceeding.

As noted above, “knowingly,” for purposes of both RR-200.4.1 and RR-200.4.2 means being aware of the nature of the conduct. It refers to general intent with respect to conduct, not with respect to a circumstance or a result of conduct. Accordingly, the nature of the deceptive conduct is untruthful representation. With respect to RR-200.4.2, a deceptive act is material if it has any significance, bearing, or weight with respect to the subject of the investigation or judicial or administrative proceeding. It need not be outcome determinative nor probative. “Investigation” includes an AIU investigation, a criminal or traffic investigation, or the investigation of any matter properly assigned to any component of the Department of Safety or any other investigating body or agency authorized by the Executive Director.

Due to the paramount need for deputies to be truthful at all times in these types of proceedings, RR-200.4.2 is assigned to conduct category F and, therefore, carries a presumptive penalty of dismissal. Consequently, a first-time offender of this rule should expect to be dismissed. Only with the existence of mitigating circumstances sufficient to outweigh the nature of this unacceptable offense and any off-setting aggravating factors would an offending deputy receive the mitigated penalty of 90 days. And only with extraordinary mitigation would a deputy who violates RR-200.4.2 receive anything less than a 90-day suspension. In some cases, extenuating circumstances – such as a deputy’s early admission of untruthfulness on a matter that would not be discovered but for the admission – while not sufficient to negate the sustaining of a violation of RR-200.4.2, could be a factor in potential mitigation.

Regardless, even in those circumstances, a deputy’s failure to be truthful may need to end his/her career. Untruthfulness of the type contemplated in RR-200.4.2 may justifiably raise questions concerning the deputy’s trustworthiness and integrity and may impact the deputy’s ability to effectively perform his/her duties and responsibilities with regard to the criminal justice system.

Instances of untruthfulness implicating either RR-200.4.1 or RR-200.4.2 may need to be disclosed to the District Attorney’s Office or City Attorney’s Office for prosecutors to meet their discovery obligations under the law.

Conduct Prohibited by Law

The Executive Director of Safety and Sheriff Department need to be able to discipline deputies for engaging in conduct that is prohibited by criminal statutes, court orders, or other laws. A primary reason for that need is that deputies are employed, in large part, to enforce custodial rules and protect Constitutional rights. Consequently, conduct by deputies that violates the law is antithetical to a deputy's role in society and diminishes the public image of law enforcement officers in general. Engaging in conduct that violates a law, particularly a criminal law, may also negatively affect a deputy's ability to perform his/her jobfunctions.

Conduct that violates any type of law can be used as the basis for a violation of RR-300.11.1, Conduct Prohibited by Law, or RR-300.11.2, Aggravated Conduct Prohibited by Law. Thus, whenever a preponderance of the evidence shows a deputy engaged in conduct that is forbidden by a felony statute; misdemeanor statute; municipal ordinance; court order; or any criminal, civil, traffic, administrative, or other law; the Department may discipline the deputy for violating RR-300.11.1 or RR-300.11.2 (depending upon the type of misconduct).

No Requirement of Criminal Conviction

The standard of proof in an administrative setting for establishing the violation of a disciplinary rule by a deputy who has passed probation is the "preponderance of the evidence" standard, which is a lower standard than the "proof beyond a reasonable doubt" standard applicable in a criminal proceeding. Therefore, there is no requirement that a deputy be convicted of a criminal offense for the Department/Executive Director of Safety to find that the deputy has engaged in conduct that is prohibited by law. Nor is there any necessity for the deputy even to be arrested or charged with a crime.

Refusal of Criminal Filing by Prosecutor Not Dispositive

It is noteworthy that a prosecutor can refuse to file a criminal case for a variety of reasons that may not be relevant to the decision to bring a disciplinary action, such as:

- (a) The prosecutor may believe there is no reasonable likelihood of obtaining a criminal conviction under the "proof beyond a reasonable doubt" standard;
- (b) There may be insufficient identification of the perpetrator;
- (c) The victim of the crime may be reluctant to testify (e.g., the victim may not want to see the perpetrator charged criminally);
- (d) Municipal charges may be more appropriate than State charges;
- (e) The matter is primarily civil in nature and, therefore, not suitable for resolution in a criminal proceeding; or
- (f) The matter is better handled through an administrative action than through the criminal justice system.

A prosecutor's refusal to file a criminal case does not compel a conclusion that a violation of RR-300.11.1 or RR-300.11.2 should not be charged or sustained against the deputy. Nor does a prosecutor's refusal to file charges serve as a mitigating factor in the administrative action. If the preponderance of the evidence establishes that the deputy has engaged in conduct that is prohibited by law, the Sheriff and/or Executive Director of Safety may sustain a violation of RR-300.11.1 or RR-300.11.2 even though criminal charges were not filed.

Effect of Plea or Finding of Guilty

On the other hand, actions that occur within the criminal justice system that establish a deputy's violation of a criminal law (such as a guilty verdict following a trial or a guilty plea) will be considered by the Department/Executive Director of Safety as conclusive proof, for disciplinary purposes, that the deputy has engaged in conduct that is prohibited by law. The reason that a conviction or guilty plea is dispositive of conduct prohibited by law is that, as noted above, the standard of proof for a criminal conviction is higher than the standard of proof for sustaining an administrative violation. Thus, if a judge or jury determines, under a "proof beyond a reasonable doubt" standard, that the evidence proves a deputy has violated a criminal statute or ordinance, that evidence would also prove, under a "preponderance of the evidence" standard, that the deputy engaged in the conduct that violated the criminal statute. Hence, a violation of a disciplinary rule based upon the same conduct as the criminal conviction would be conclusively established. Likewise, any other type of criminal disposition that essentially requires an admission that the deputy engaged in the unlawful conduct (such as a plea of nolo contendere or a deferred judgment) will conclusively establish a violation of a disciplinary rule based on the conduct at issue in the criminal case.

Effect of Finding of Guilty as to Lesser Charges

If in a criminal proceeding a deputy is not found guilty of violating the most serious crime with which he/she is charged but instead is found guilty of a lesser offense, a violation of RR-300.11.1 or RR-300.11.2 could still be sustained if the evidence establishes that the deputy engaged in conduct that is prohibited by law. Thus, the Department/Executive Director of Safety could sustain a violation of RR-300.11.1 or RR-300.11.2 for the lesser crime for which the deputy was convicted, any higher-level crime for which the deputy was not convicted, or any other crime applicable to the deputy's conduct.

Effect of Finding of Not Guilty

A similar situation could arise if a deputy charged with one or more criminal violations is found not guilty or the case is dismissed for any reason. For the reasons already stated in this section, a violation of RR-300.11.1 or RR-300.11.2 could still be sustained if a preponderance of the evidence establishes that the deputy engaged in conduct prohibited by that law.

Mere Filing of Case Not Evidence

The mere fact that a criminal case is filed against a deputy is not evidence supporting a violation of RR-300.11.1 or RR-300.11.2; nor does the mere filing of criminal charges result in an aggravation of the administrative case because, like any other citizen, the charged deputy is entitled to a presumption of innocence.

Criminal Conviction Not Mitigating but Can Be Aggravating

The fact that a deputy has been charged with, or convicted of, a criminal offense, and suffered some detriment, should never be a reason to decline to consider or impose disciplinary action against a deputy for engaging in conduct that is prohibited by law. Nor should such prosecution or conviction serve in any way as a mitigating factor in imposing a disciplinary sanction on the deputy if he/she is sustained for violating RR-300.11.1 or RR-300.11.2. On the other hand, conviction of a criminal offense based upon the same conduct at issue in the disciplinary case may be an aggravating factor.

The Decision to Consider and Sustain Disciplinary Action Based Upon Conduct Prohibited by Law

From a legal standpoint, a violation of RR-300.11.1 or RR-300.11.2 could be considered and sustained whenever a preponderance of the evidence indicates that the deputy has engaged in conduct prohibited by law. However, caution and sound reasonable judgment should guide the decision to proceed administratively under a “Conduct Prohibited by Law” theory, especially where a deputy has not been prosecuted criminally or criminal charges have been dismissed and there are other administrative rule violations that address the misconduct. A thorough review of all the facts and circumstances of the case must be undertaken to ensure the appropriateness of any action taken.

Cautionary Instructions When Reviewing an Alleged Violation of RR-300.11.1– Conduct Prohibited by Law, or RR-300.11.2 – Aggravated Conduct Prohibited by Law

In those circumstances in which either the deputy has not been criminally prosecuted or criminal charges have been dismissed, a violation of RR-300.11.1 – Conduct Prohibited by Law, or RR-300.11.2 – Aggravated Conduct Prohibited by Law may be sustained. Reviewers, however, are cautioned that to sustain violations of both RR-300.11.1 or RR-300.11.2 and another Departmental rule prohibiting the underlying conduct may result in a “stacking of charges” as outlined in section 32.8 of these Conduct Principles and Disciplinary Guidelines. Sound reasonable judgment and caution must be exercised in such cases to avoid an injustice and to ensure that the administrative action is being taken for legitimate and appropriate purposes.

Start of Administrative Investigation when Criminal Charges Pending

It is also important for deputies to know what will trigger an administrative investigation when a criminal proceeding is pending against a deputy. The Department may proceed with the administrative case while a criminal case is pending, or it may wait until the conclusion of the criminal matter before proceeding. Many factors may influence the Department’s decision. This decision should be made cautiously and in consultation with the prosecutor’s office handling the pending criminal case. The factors for consideration include but are not limited to:

- (a) The seriousness of the deputy’s alleged conduct/nature of charges;
- (b) The strength of the evidence;
- (c) The amount of additional investigation necessary;

- (d) The length of the criminal process;
- (e) The potential detrimental effect on the criminal prosecution; and
- (f) The potential detrimental effect on the operations of the Department.

Application of the Matrix and Considerations in Determining the Appropriate Penalty in “Conduct Prohibited by Law” Cases

As indicated above, violations of the law are divided into two categories – RR- 300.11.1 – Conduct Prohibited by Law and RR-300.11.2 – Aggravated Conduct Prohibited by Law. Under the matrix system, RR-300.11.1 is intended to apply to a wide range of conduct prohibited by local ordinances and State or Federal statutes. This conduct includes, but is not limited to, criminal, civil, traffic, administrative, and other violations of law and may range from minor infractions to extremely serious misconduct.

It is unreasonable to attempt to pre-determine what conduct category would apply when a violation of RR-300.11.1 is sustained. Therefore, RR-300.11.1 is listed in every conduct category (A - F) in the matrix. A reviewer must analyze the conduct underlying the violation in accordance with section 15.0, Determining Appropriate Conduct Categories – Analysis, to determine the appropriate presumptive penalty. As part of that analysis, the reviewer must determine, among other things, the general nature and seriousness of the misconduct, how the misconduct relates to the guiding principles of the Department, and how it otherwise meets the definition of a specific conduct category. In doing so, the reviewer should determine whether the alleged violation involves any of the following, which are considered by the Department to be serious departures from Department standards:

- (a) Conduct involving dishonesty, a serious lack of integrity, or other forms of moral turpitude;
- (b) Conduct involving assaultive or threatening behavior;
- (c) Conduct involving the use or threatened use of a deadly weapon;
- (d) Conduct involving offenses of a sexual nature;
- (e) Conduct that could affect a deputy’s legal authority to possess or carry a firearm;
- (f) Conduct that would constitute a mandatory disqualifier to being hired by the Department;
- (g) Conduct involving offenses listed as decertifying under POST standards;¹ and
- (h) Misconduct foreseeably resulting in serious bodily injury or death.

¹ The City and County of Denver does not currently require its deputy sheriffs to be certified by the Colorado Peace Officer Standards and Training (POST) Board. However, Denver deputy sheriffs are “peace officers” under the laws of the State of Colorado. POST maintains a list of offenses that are deemed to be serious enough to disqualify an officer from service as a certified peace officer in the State of Colorado. (See CRS 24-31-305). The Executive Director of Safety and Sheriff have determined that these offenses shall also be considered serious by the Denver Sheriff Department and may be weighed in conjunction with all other relevant factors in the consideration of the appropriate discipline to be imposed on a deputy sheriff in a particular case.

In contrast, RR-300.11.2 – Aggravated Conduct Prohibited by Law, is intended to give all deputies notice of the types of misconduct prohibited by law that the Department has pre-determined to fall within Conduct Category F and to, therefore, carry a presumptive penalty of dismissal. These include any conduct that constitutes a felony or class one misdemeanor and any conduct prohibited by State or Federal criminal statutes that occur either: (i) while a deputy sheriff is on duty; or (ii) is acting under the color of authority as a law enforcement officer while off duty.

Conduct Prohibited by Law Involving Driving Under the Influence and Driving While Ability Impaired

The Denver Sheriff Department fully recognizes the serious public safety issues involved when persons who have consumed alcohol and/or drugs operate motor vehicles. The Department is routinely placed in charge of inmates who are arrested for violations of laws related to driving offenses involving alcohol/drugs. Consequently, the Department has a significant interest in deterring such misconduct by its deputies and in imposing appropriate discipline for such misconduct.

Driving offenses involving alcohol/drugs can meet the definitional criteria described in Conduct Categories D, E, or F or may constitute a violation of RR- 300.11.2 – Aggravated Conduct Prohibited by Law. Similarly, the particular facts and circumstances may give rise to charged or sustained violations of additional Departmental rules and regulations, where appropriate.

In determining the appropriate penalty for driving offenses involving alcohol/drugs, the reviewer must follow the principles and guidelines contained in this Handbook.

Among the factors that may be considered aggravating (or may result in a higher conduct category or justify additional allegations of misconduct) in addition to those contained in Handbook section 19.0 are:

- (a) Driving resulting in death or physical injury;
- (b) Driving resulting in more than minimal property damage;
- (c) Reckless driving or excessive speeding (20 mph or more over the speed limit);
- (d) Threatening, discourteous, abusive, disrespectful, or unprofessional conduct toward investigating law enforcement officers;
- (e) Attempts to elude apprehension;
- (f) Resisting detention or arrest;
- (g) Carrying a firearm on the deputy's person or displaying a firearm;
- (h) Attempting to improperly influence the investigation by use of the deputy's rank or position as a law enforcement officer;

- (i) Leaving the scene, tampering with or altering evidence, making false statements to investigators, or other attempts to avoid detection or responsibility;
- (j) The loss of, or restrictions on, driving privileges;
- (k) Prior alcohol related offenses (criminal or administrative); and
- (l) A blood alcohol level greater than .08.

Apart from the imposition of appropriate discipline, deputies should always be aware of other consequences that may result from driving offenses involving alcohol/drugs. These consequences may affect a deputy's ability to perform an essential function of his/her position as a deputy sheriff. Deputies should also be aware of the provisions of Mayoral Executive Order 94 that address alcohol/drug-related conduct while "on duty," while in city facilities, or while operating city vehicles.

Use of Inappropriate Force Against Individuals

The Critical Importance of the Department's Effectively Managing Uses of Force

Ensuring that the authority granted to deputies to use force, up to and including lethal force, is properly exercised and effectively managed is one of the most critical challenges facing the Denver Sheriff Department. Deputies must understand that the Sheriff Department, the Department of Safety, and the City have a vitally important interest in promoting and maintaining a culture where the decision to use force is reasonable and necessary, all uses of force are timely and accurately reported, uses of force are properly reviewed and investigated, when appropriate, so that any deputy determined to be misusing or abusing the authority to use force is held accountable. The use of inappropriate force will not be condoned or tolerated in any way. This is critical for a number of reasons including, but not limited to, the following:

- (1) The traditional role of Denver deputy sheriffs in the criminal justice system differs from others whose primary function is arrest, determination of guilt, and punishment of offenders. Denver deputy sheriffs are primarily charged with the responsibility of humanely and safely housing, caring for, and transporting inmates regardless of their pre-conviction or post-conviction status or the nature of the offenses for which they have been charged.
- (2) The failure to hold deputy sheriffs appropriately accountable for the use of inappropriate force can lead to the erosion of professionalism within the Department and undermine its other duties, responsibilities, and authorities.
- (3) Deputy sheriffs hold a position of trust bestowed upon them by the Department, the City, and the public. As a result, deputies are justifiably held to a high standard of Departmental and public accountability.
- (4) Prior to being hired, deputy sheriffs are subject to psychological testing and background investigations to ensure that they are qualified to hold a position of trust. The Department seeks to hire persons who have demonstrated characteristics that indicate the ability and willingness to perform with integrity,

honesty, and good judgment; to work in stressful environments; to treat others fairly and judiciously; and to appropriately use authority and force. While these characteristics are important in the hiring process, it is even more critical that deputies be held to these high standards after being hired.

- (5) The authority to use force is an immense power, granted only to a very limited class of Denver employees. Consequently, the authority to use force carries with it the tremendous responsibility of ensuring that it is exercised appropriately.
- (6) Because of the imbalance of power and status between deputy sheriffs and inmates, the credibility generally afforded deputies as law enforcement officers in disputed incidents with inmates, and the amount of authority and control exercised by deputies over inmates in a custodial setting, the potential and opportunity for deputies' misuse or abuse of the authority to use force is considerable.
- (7) The use of inappropriate force is directly contrary to community expectations and to the Department's core mission of providing for the care and custody of inmates in accordance with its guiding principles. These include the obligation to act in a fiduciary capacity toward inmates; to protect them from harm; and to treat them in a humane, respectful, and fair manner.
- (8) The values and obligations expressed in the Department's Guiding Principles and the DSD Use of Force Policy are equally applicable to all individuals and are not limited to persons held in custody. Deputies must treat every individual in a dignified, respectful, and humane manner; protect members of the public from harm; work together to maintain an environment that fosters customer service and professionalism, and respect the right of every person to be free from inappropriate force.
- (9) The potential consequences that can result from the use of inappropriate force, such as:
 - Unjustifiable injury or death to an inmate or other person;
 - Escalation of disruption or resistance by the person against whom the inappropriate force is used or by others;
 - Civil liability on the part of the offending deputy, other involved deputies, or the City;
 - Criminal liability on the part of the offending deputy or other involved deputies;
 - Damage to the reputation and professional image of the Department and to the facilities under its control. No issue is likely to impact the public's relationship with, and respect for, the Department more than the inappropriate use of force;

- Loss of public confidence in the Department and development of a public perception that the Department is untrustworthy and unable to carry out its duties and responsibilities in a professional manner;
- Development of a public perception that the City or Department condones or tolerates the use of inappropriate force.

The Sheriff Department, the Department of Safety, and the City also recognize that they have an equally vital interest in ensuring deputy and employee safety, providing deputies with the authority and tools necessary to carry out their duties, and supporting deputies when they properly exercise their authority. This includes the authority to use appropriate force when it is reasonable and necessary to do so.

Recognizing the various critical interests involved, the Department has taken a number of steps to manage the use of force by its deputies and to create and maintain a culture of strict accountability for all uses of force. These include, but are not limited to:

- (1) Revisions to the Department’s Guiding Principles emphasizing the obligation to protect both Department personnel and inmates from harm, to act in a fiduciary capacity toward inmates, and to treat all persons, including inmates, in a humane and respectful manner.
- (2) Publication of a new Use of Force Policy that, among other provisions:
 - Recognizes the value of all human life, the dignity of every individual, and every individual’s right to be free from inappropriate force by any law enforcement officer.
 - Recognizes that the Department is committed to ensuring safety and security for all – including DSD personnel, the public, and inmates – and to executing its duties in a fair and humane manner.
 - Recognizes the need of the Department to maintain a strong positive relationship with the community.
 - Creates a duty for deputies to use de-escalation techniques when time and circumstances permit in an attempt to avoid the use of force, reduce the level of force necessary, stabilize a potentially volatile situation, or reduce the immediacy of the threat posed.
 - Creates a duty for deputies to employ tactical options, when time and circumstances permit, to increase the likelihood of safely handling a potential force encounter and to attempt to reduce the need for force or the level of force necessary.
 - Creates the standard of “reasonable and necessary” as the administrative standard by which all uses of force against individuals are to be judged. That standard includes the duty to employ de-escalation techniques and tactical

options as referred to directly above, along with the duty to use, where force is necessary, “the least amount of force necessary to safely accomplish a legitimate law enforcement or detention-related function.”

- Provides guidelines/limitations for the use of various control/force options available to deputies.
 - Confirms the “duty to intervene”. Uniform personnel are required to intervene to prevent or stop another employee, regardless of rank, from using physical force that exceeds the degree of force permitted under Colorado law and under the Use of Force policy. This includes “the application of physical techniques or tactics, chemical agents, or weapons to another person”. This language means that any uniformed personnel at the scene (regardless of the number of employees who are present) based upon the totality of the circumstances who reasonably believes that another employee-without regard for the chain of command-is using inappropriate physical force, he or she is legally required to intervene in the use of such force. This duty exists regardless of whether the deputy arrives on scene prior to or even during the time force is being used. If a deputy arrived on scene after force was already being used, and there was no indication to that deputy that the force was inappropriate under the circumstances, the deputy would have no duty to intervene to stop the use of force. However, if the use of force continued after the suspect was under control a deputy would have a duty to intervene and stop the use of force at that point.
- (3) Increased training in the use of de-escalation and crisis intervention techniques.
 - (4) Increased training in the use of tactical options.
 - (5) Creation of an enhanced system for reviewing all uses of force and for maintaining use of force data.
 - (6) Revisions to this Discipline Handbook to provide greater guidance for the administrative review of force cases and the determination of disciplinary sanctions, if appropriate.

Deputies are responsible for knowing and understanding all the provisions of the Use of Force Policy and all other Department rules regarding the use of force and for exercising sound judgment in applying them. Given the critical importance of the Department’s need to effectively manage the use of force and the numerous negative consequences that can potentially result from the inappropriate use of force, deputies should expect that, where violations of the Use of Force Policy or other applicable rules are proven, disciplinary sanctions up to and including termination, commensurate with the nature and seriousness of the violation and other appropriate considerations, will be imposed.

Three Levels of Force Review

Any use of force is potentially subject to review during three different proceedings. These three types of proceedings are:

- (1) **Criminal Proceeding** – The District Attorney is responsible for determining whether any use of force constitutes a violation of Colorado criminal laws that likely can be proven beyond a reasonable doubt. A conviction for violation of the criminal law will subject a deputy to a range of criminal sanctions such as fines, probation, or incarceration. Dismissal of criminal charges or a not guilty finding does not end the Department’s administrative review of a deputy’s use of force and does not constitute a determination of whether the force used was in violation of the Department’s Use of Force Policy or any other applicable rules.
- (2) **Civil Proceeding** – A civil proceeding is filed in either state or federal court by the individual against whom force was used. In a civil proceeding, the individual who filed the complaint will be required to prove by a preponderance of the evidence that the deputy’s use of force violated constitutional or state laws. A finding against the deputy may result in a judgment assessing monetary damages against the deputy who is named in his/her individual capacity as a defendant, including a potential award of punitive damages for which the deputy is personally liable. Any determination in a civil lawsuit regarding a deputy’s conduct is not relevant to the Department’s determination of whether that deputy may be disciplined for violating of the Department’s Use of Force Policy or other rules.
- (3) **Administrative Review** – Administrative review is conducted by the Department and, where applicable, the Department of Safety. The purposes of an administrative review are to determine:
 - Whether there is a preponderance of evidence to establish any violation of the Department’s Use of Force Policy or any other applicable rules.
 - If any violation is established, the appropriate disciplinary sanction to be imposed.
 - Whether any aspect of the use of force incident necessitates any changes in policy, procedure, training, or equipment.

Administrative review includes a review of all the facts and circumstances leading up to the use of force that may have contributed to the decision to use force and the level of force used. The standard applied to this review with regard to force used against individuals is that of whether the force was “reasonable and necessary,” as defined by the Use of Force Policy and discussed herein. It includes a review of whether the deputy used appropriate de-escalation techniques or tactical options, when time and circumstances permitted, in an attempt to avoid the use of force or to reduce the level of force necessary. As stated in the Use of Force Policy, DSD’s “reasonable and necessary” standard is more restrictive than other standards such as the “objective reasonableness” standard of which deputies may be aware from criminal and civil cases or from provisions of prior use of force policies. All deputies, particularly those involved in training or the administrative review process, must understand this

distinction.⁵

Use of the Term “Inappropriate Force” and its Application

The terms “unnecessary force” and “excessive force” are not used in the Use of Force Policy. Rather, force that falls outside Department standards shall be classified as “inappropriate” and encompasses all the following situations:

- (1) A deputy has used force in a particular circumstance but, under the Use of Force Policy, no force should have been used;
- (2) A deputy has used a particular level of force but, under the Use of Force Policy, a lesser degree of force should have been used;
- (3) A deputy has used a particular type of weapon, device, or instrument but, under the Use of Force Policy, that type of weapon, device, or instrument should not have been used or attempted at all or should not have been used or attempted in that particular manner;
- (4) A deputy has used force in a particular way but, under the Use of Force Policy, the deputy was not justified in using or attempting to use force in that way; and
- (5) Any other situation in which a deputy’s use force is not justified by the DSD Use of Force Policy.

What is a “Use of Force”?

“Use of force” means any physical force, lethal or less lethal, used against another person or animal, whether or not the force actually makes contact with the intended target, in accordance with the DSD Use of Force Policy. It does not include:

- (1) The use of command presence or verbal command/voice as a means of attempting to control an individual;
- (2) The accidental discharge of less lethal or lethal devices not occurring in conjunction with a use of force; or
- (3) Placing of handcuffs, shackles (leg irons), or other restraint devices on an individual who is not resisting.
- (4) Reasonable physical contact with a non-resisting individual in the course of carrying out authorized duties including, but not limited to, directing or controlling inmate movement, escorting, fingerprinting, searching, or other activities when properly conducted in accordance with Departmental policies and procedures.
- (5) Maintaining a control hold without the application of force or pressure on a previously resisting, but now compliant, individual for a reasonable time in order to accomplish an authorized function.

⁵ Nonetheless, it is important to note that in addition to, or as an alternative to, a determination that a use of force was in violation of the DSD Use of Force Policy or other applicable rules, the EDOS may impose discipline based upon a determination that the force used constituted a violation of RR-300.11.1, Conduct Prohibited by Law, or RR-300.11.2, Aggravated Conduct Prohibited by Law. Where the force is alleged to be a violation of criminal law, it must be reviewed using substantive

Understanding the “Reasonable and Necessary” Standard

The “reasonable and necessary” standard is best understood as a series of four requirements. They are:

- (1) That a deputy use de-escalation techniques such as crisis intervention, verbal judo, or other communication techniques, if time and circumstances permit, in an attempt to avoid the use of force and to gain voluntary compliance. These techniques can also serve to lessen the likelihood of the need for force, reduce the level of force necessary, stabilize a volatile situation, or reduce the immediacy of the threat posed;
- (2) That a deputy use tactical options, such as a cautious approach, keeping a safe distance, or barriers, if time and circumstances permit, to increase the likelihood of safely handling a potential use of force situation while attempting to reduce the need for force or the amount of force necessary;
- (3) That, if force is to be used, it must be the least amount of force necessary to safely accomplish the objective being sought; and
- (4) That the objective or purpose for the use of force is to accomplish a legitimate law enforcement or detention-related function.

Each of the four requirements of the “reasonable and necessary” standard must be met in order for a use of force to be determined appropriate. Compliance with any individual requirement alone, such as a determination that the force was used to accomplish the legitimate detention-related function of enforcing orders and maintaining order and discipline, is not sufficient in and of itself to justify a use of force. If a deputy fails to use reasonable de-escalation tactics or appropriate tactical options, when time and circumstances permitted such use, the reviewer must determine the reason for the failure and whether the failure was justified under the circumstances.

Applicability of the “Reasonable and Necessary” Standard

The “reasonable and necessary” standard applies to all uses of force by deputy sheriffs against individuals regardless of whether the force in question is lethal or less-lethal or whether the use of force occurs in a custodial setting or outside a custodial facility.

The Determination of Whether Force was “Reasonable and Necessary”

In determining whether a particular use of force was “reasonable and necessary” as required by the Use of Force Policy, the reviewer should consider the totality of the circumstances as they relate to the reasonableness of the deputy’s:

- (1) Assessment of the threat posed.
- (2) Assessment of the need to use force immediately or whether time and circumstances permitted the use of tactical options and de-escalation

techniques.

- (3) Choice and use of de-escalation techniques.
- (4) Choice and use of tactical options.
- (5) Choice and use of the force option needed to overcome the threat posed.

The determination of reasonableness is a two-step process:

- (1) The reviewer must first determine based upon the totality of the circumstances, what the deputy knew or reasonably should have known before using force. This step re-enforces the importance of completeness and accuracy in writing use of force reports.
- (2) The actions of the deputy are then measured against what would be expected of “a reasonable deputy,” applying the provisions of the Use of Force Policy under similar circumstances. In measuring the deputy’s actions against those of “a reasonable deputy under similar circumstances,” the reviewer must consider only those facts that were known or reasonably should have been known by the deputy prior to using force and not information that was learned afterwards.

Basic Outline of an Analysis of Whether a Use of Force was Inappropriate

The following is an outline of the questions/issues that may need to be considered by a reviewer who is determining whether a use of force was inappropriate under the provisions of the Use of Force Policy. It is not intended to be exhaustive and must be adapted to the particular facts and circumstances of the use of force under review. The reviewer should keep in mind that the goal of the Use of Force Policy is for deputies to avoid the use of force, when possible based upon the time and circumstances, or to reduce the level of force necessary to meet the threat faced, when it is reasonable and safe to do so. The policy places emphasis not only on the actual use of force but on the totality of the circumstances and the actions of the deputy leading up to the use of force. Consequently, a use of force that might be “appropriate” when viewing the force in isolation may be deemed an “inappropriate use of force” when there is a failure to take appropriate steps, when time and circumstances permit, to attempt to de-escalate a situation or to use appropriate tactics as provided for in the Use of Force Policy, prior to using force.

- (1) What was the nature of the incident/threat/resistance faced by the deputy? Did the deputy assess the threat based information which was known or reasonably should have been known to the deputy? Did the deputy continually assess the threat and adjust his/her response accordingly? This requires consideration of the totality of the circumstances that could contribute to the need to use force and the level of force necessary. To guide the assessment, the Use of Force Policy describes a range of “types of resistance.” These include psychological intimidation, verbal non-compliance, passive resistance, defensive resistance, active aggression, and aggravated active aggression. All deputies and reviewers must be familiar with the requirements of, and the distinctions between, the various types of

resistance as these will guide the control and/or force options available to a deputy.

- (2) Did time and circumstances permit the deputy to safely use tactical options and/or de-escalation techniques to possibly avoid the use of force, gain voluntary compliance, stabilize a volatile situation, reduce the immediacy of the threat, lessen the likelihood of the need for force or the level of force necessary, or otherwise increase the likelihood of safely handling the situation? To make this determination, consideration must be given to: (i) the nature and level of the threat; (ii) the immediacy of the threat; (iii) the risk posed to the deputy, inmate, or third party if force is not immediately used; (iv) the ability to accomplish the law enforcement or detention-related objective being sought without the immediate use of force; and (v) all other relevant circumstances.
- (3) If time and circumstances permitted, the safe use of tactical options and/or de-escalation techniques, did the deputy use appropriate tactical options? Tactical options include, but are not limited to: (i) planning prior to confronting an anticipated threat; (ii) a cautious approach; (iii) effective communication; (iv) tactical positioning, including establishing safe distance; (v) movement and repositioning, including movement to the rear to create/maintain safe distance or increase the time available to react to the threat; (vi) the use of cover, concealment, or barriers; (vii) containment; (viii) seeking additional assistance; and (ix) temporary or permanent dis-engagement.
- (4) De-escalation techniques include, but are not limited to, orders, warnings, verbal persuasion or verbal judo, crisis intervention techniques, or any other verbal or nonverbal strategy not in violation of any departmental policies or rules designed to encourage voluntary compliance.
- (5) If the totality of the circumstances demonstrate that the deputy had time to safely use tactical options or de-escalation techniques, and the deputy failed to do so, what effect did the failure to use reasonable tactical options or the use of inappropriate tactical options have on the need to use force or the level of force necessary to meet the threat posed?
- (6) Did the totality of the circumstances support the need to use some level of force? To make this determination, consideration should be given to the following: (i) whether time and circumstances permitted the use of tactical options or de-escalation techniques prior to using force; (ii) whether reasonable tactical options and/or de-escalation techniques were tried but were unsuccessful or ineffective; and/or (iii) whether the situation was rapidly evolving and at the time force was used, the totality of the circumstances demonstrated the need to use force.
- (7) If force was used, was it “reasonable and “necessary” as defined by the Use of Force Policy? To make this determination, a reviewer must consider the totality of the circumstances, including what was known or reasonably should have been known to the deputy at the time and:

- Whether the force option was authorized to meet the level of threat/resistance faced;
 - Whether the force technique or device employed was used in an appropriate manner;
 - Whether the force option used was the least amount of force needed to safely accomplish the desired objective;
 - Whether the desired objective was the accomplishment of a legitimate law enforcement or detention-related function.
- (8) In determining the reasonableness of the force option used, the following provisions of the Use of Force Policy are relevant:
- The levels of threat a deputy may face (previously identified in paragraph (1) of this section).
 - Control/force options authorized by the Department. Such options include non-force control options including command presence and verbal commands and force options that range from the least intrusive or impactful to those capable of producing serious bodily injury or death. Control/force options include: (i) control holds and compliance techniques; (ii) restraint devices; (iii) personal body weapon strikes and/or kicks; (iv) chemical agents; (v) impact weapons; (vi) specialized weapons and devices used by the Emergency Response Unit; (vii) electronic control devices such as Tasers; and (viii) lethal force.
 - The Use of Force Policy explains which control options are authorized to be used at which level of resistance and, if authorized, the requirements for, and limitations on, the manner in which the control option may be used.
- (9) The determination of whether the force used was the least amount of force necessary to safely accomplish a desired objective must be based upon a consideration of the particular facts and circumstances of the case reviewed, including whether lesser force options were reasonably available, considered, or attempted and found to be ineffective. The reviewer should not second guess or use hindsight based upon information learned after the incident that was not available to the deputy who used the force.
- (10) The determination of whether the force was used to accomplish a legitimate law enforcement or detention-related function must also be based on the particular facts and circumstances of the case. The Policy recognizes that less lethal force may be used for the following purposes when it is “reasonable and necessary” to do so:
- To prevent physical harm to deputies and third persons.

- To enforce rules, policies, regulations, and orders.
- To prevent or stop the commission of crimes that pose a threat of physical harm.
- To overcome the actions of an individual who is engaging in active aggression or aggravated active aggression.
- To prevent the destruction of property that raises a significant safety or security risk.
- To prevent or stop the throwing or projection of any bodily substance.
- To prevent an individual from inflicting self-harm.
- To prevent the destruction of evidence of a crime. However, force may not be used to prevent the destruction of such evidence when an individual has already put the evidence into his/her mouth or is attempting to swallow the evidence. In such circumstances, medical intervention shall be sought rather than using force.
- To stop or arrest under the limited circumstances in which the Executive Director of Safety authorizes such stops or arrests.

The Policy prohibits the use of force:

- In response to an individual’s verbal swearing, insults, or threats without the present ability to carry out the threat.
- To punish, degrade, humiliate, discipline, retaliate against, improperly coerce, discriminate against, or unnecessarily cause pain or injury to an individual.
- After compliance or control of an individual has been obtained.
- On a restrained individual, including an individual who is handcuffed, except when: (i) it is “reasonable and necessary” to gain compliance; or (ii) a circumstance exists that requires immediately stopping or preventing a restrained individual from injuring someone, including himself/herself, or escaping.

Additionally, the policy authorizes a deputy to use lethal force when reasonable and necessary:

- **To defend himself/herself or a third person from the use or imminent use of lethal force; or**
- **To prevent the escape of a person whom the deputy reasonably believes is attempting to escape by the use of a lethal weapon and who presents an imminent threat to a deputy or third party.**

Lethal force is not authorized to protect an individual from inflicting self-harm. The discharge of a firearm as a warning or attention shot is prohibited under the Policy.

Additional Factors that may be Considered when Determining the Appropriateness of a Use of Force.

The following should be considered when looking at the “totality of the circumstances” and making a determination of whether a use of force was appropriate. This list is not intended to be all-inclusive:

- (1) The location of the use of force including: (i) the approximate time; (ii) lighting conditions; (iii) physical layout of the area; (iv) activities taking place in the immediate area; (v) proximity of other persons; (vi) proximity of other structures or objects; and/or (vii) any other physical characteristics that might be relevant to the use of force.
- (2) The physical characteristics or abilities of the deputy using force and the person against whom force was used.
- (3) Any acts known by the deputy, prior to using force, about the person upon whom force was subsequently used that might be relevant to the use of force.
- (4) Any relevant prior “interaction” or “relationship” between the deputy using force and the person upon whom force was subsequently used.
- (5) The words, gestures, actions, etc. of the person against whom force was used, before, and during the use of force.
- (6) The physical or mental condition of the person upon whom force was used if known or reasonably should have been known to the deputy. (For example: level of intoxication, other physical impairment, level of stress/agitation, or whether suffering from an obvious mental condition.) Was there any opportunity/ attempt to consider that physical or mental condition in determining whether to use force or the level of force to be used?
- (7) Whether the person against whom force was used was armed with a weapon, reasonably believed to be armed, threatening the use of a weapon, or had access to a weapon or any object that could have been used as a weapon. If so, what was that weapon/object? If no weapon was located after the use of force, what was the basis for believing a weapon existed?
- (8) Whether the person against whom force was used was restrained by any person or device and the level of that restraint. To what extent, if any, did the person resist despite being restrained.
- (9) Did the person against whom force was used carry out or have the present ability to carry out any threat posed?

- (10) Any words, gestures, or actions of the deputy using force prior to, during, and after the time he/she used force.
- (11) If there was a reasonable opportunity to safely de-escalate an incident, did the deputy using force attempt to do so? If not, what was the deputy's explanation for not doing so?
- (12) If there was a reasonable opportunity to safely use tactical options, did the deputy attempt to do so? If not, what was the deputy's explanation for not doing so?
- (13) What was the underlying offense, infraction, or conduct that precipitated the initial contact and the subsequent use of force?
- (14) What was the manner in which force was used, including but not limited to, the number of times force was used, the duration of the force, the position on the body to which the force was directed, and the position on the body impacted by the force?
- (15) Once the use of force commenced, was there a reasonable need to increase the level of force based upon the continued or increased level of resistance/threat/harm posed?
- (16) Once the use of force commenced, was it reasonably decreased or stopped as the level of resistance/threat/harm decreased or stopped?
- (17) With regard to the person against whom force was used, what was the nature and extent of any injuries resulting from the use of force? Was a medical assessment conducted in accordance with Department policy?
- (18) With regard to the deputy using force, what was the nature and extent of any injuries sustained by him/her?

Determining Appropriate Discipline for the Use of Inappropriate Force Against Persons

For reasons previously stated herein, the management of deputies' uses of force is one of the most critical challenges facing the Denver Sheriff Department. The Department considers fair, effective, and appropriate discipline to be a vital part of the Department's goal of promoting and maintaining a culture of accountability regarding the use of force.

Conduct Category F Uses of Inappropriate Force on a Person

The Department considers the following types of inappropriate force to be an abuse of the authority to use force and to meet the requirements of Conduct Category E or F, thereby carrying a presumptive penalty of termination of employment. This should not be considered an exhaustive list, and includes any inappropriate force:

- (1) That foreseeably results in serious bodily injury or death. (F)
- (2) Used under circumstances indicating the force was intended, in whole or in part, to punish, degrade, humiliate, discipline, retaliate against, improperly coerce, discriminate against, or unnecessarily cause pain or injury to an individual, regardless of the extent of injury. (F)
- (3) Used under circumstances where force is unreasonably and intentionally continued after a previously resisting individual ceases resistance, regardless of the extent of injury. (E or F)
- (4) That is significantly disproportionate to the threat posed, regardless of extent of injury. (E or F)
- (5) Used under circumstances demonstrating an effort or intention to avoid detection, suppress reporting, or otherwise impede the discovery or review of the inappropriate use of force, regardless of the extent of injury. (F)
- (6) Used against a particularly vulnerable individual, regardless of the extent of injury. (E or F)
- (7) Intentionally and unjustifiably targeting a particularly vulnerable part of the body in a situation where lethal force is not justified, regardless of the extent of injury. (F)
- (8) Involving the use of a force technique not authorized by the Department or any, weapon, device, or instrument carried or possessed by the deputy prior to the use of force encounter in violation of the law or any Departmental rule or policy. (E or F)
- (9) Used against a restrained individual reasonably incapable of posing a credible threat, regardless of the extent of injury. (E or F)
- (10) Used under circumstances where the deputy using force instigated, provoked, or initiated the confrontation leading to the use of force, regardless of the extent of injury. (E or F)

The above list is intended to emphasize that the “extent of injury” is but one factor, among many, by which the abuse of the authority to use force shall be judged. As demonstrated by the list, other factors will also be considered, regardless of the extent of injury: (i) the nature and character of the force; (ii) the purpose of the force; (iii) the force instrument or technique used; (iv) the vulnerability of the person on whom force is used; (v) any attempt to impede the discovery, reporting, or review of the force; and (vi) any instigation or provocation of the force by a deputy.

Consideration of Prior Violations that Mandatorily Increase the Discipline Level

Once the appropriate Conduct Category is determined, and the discipline level identified,

the reviewer must consider (in accordance with section 18.0), whether the subject deputy has any prior sustained violations of an equal or greater Conduct Category within the time periods specified in section 18.1 that operate to mandatorily increase the discipline level. Where any prior sustained violations do not mandatorily increase the discipline level, they may be considered in the determination of mitigation, aggravation, or special circumstances as described in sections 19.0 through 25.0.

Considering Mitigating, Aggravating, and Special Circumstances

To determine an appropriate disciplinary sanction, the process does not end with the determination of the presumptive penalty, even where that presumptive penalty is termination. The reviewer must carefully consider whether there are any circumstances which might justify a finding of mitigation, aggravation, or special circumstances by applying the provisions of sections 19.0 through 25.0 which include the weighing process described in section 22.0. While it is difficult to pre-determine what factors might be applicable in a particular case, sections 19.6, 19.9, 20.0, 21.0, 25.4.3, 25.5, and provide guidance. During the investigation and/or the contemplation of discipline meeting, subject deputies shall have the opportunity to offer any information they consider mitigating and the reviewer shall consider that information. However, the weight to be afforded that information is within the sound discretion of the reviewer subject to the application of the provisions of this Discipline Handbook and Career Service rules.

The reviewer must keep in mind that the object of this step-by-step process is to produce a discipline sanction that is fair, reasonable, and in accordance with the purposes of discipline contained in sections 11.1 through 11.4 of this Handbook and in Career Service Rules.

Considerations Related to Failure to use Reasonable De-escalation and/or Tactical Options

As previously noted, a use of force may be found to be inappropriate where a deputy failed to use appropriate de-escalation techniques or tactical options when time and circumstances permitted and the failure to do so contributed to the need to use force or the level of force necessary. In such a case, the use of inappropriate force would fall into Conduct Categories D, E or F, However, factors that might be considered in determining whether the resulting penalty should be mitigated include, but are not limited to: (i) the degree to which the failure to use de-escalation techniques or tactical options contributed to the use of force; (ii) the time between that failure and the use of force; or (iii) subsequent to the deputy's failure to use reasonable de-escalation techniques or tactical options, the actions of the individual against whom force was used significantly increased the need to use force or the level of force necessary.

Cases where the subject deputy failed to use appropriate de-escalation techniques or tactical options when circumstances permitted doing so, but the failure did not contribute to the use of force, may nonetheless constitute a violation of a provision of the Use of Force Policy but not one amounting to an inappropriate use of force. However, the EDOS and the Sheriff have determined that such failure may be sufficiently corrected with non-disciplinary remedial training as opposed to formal discipline. Nonetheless, in some cases, formal disciplinary action may be necessary. (For example, in cases where a deputy has participated in remedial training but continues to fail to use appropriate de-escalation techniques and tactical options.)

The Importance of Remedial Training

The Department recognizes the importance of timely remedial training regarding uses of force. Consequently, remedial training shall be required of all deputies disciplined for the inappropriate use of force who are not terminated. As noted in the Discipline Handbook, remedial training is considered by the Department as ancillary to the imposition of discipline sanctions and not a condition of discipline. Where a deputy is suspended, this remedial training shall be completed upon his/her return to duty or as soon as practical thereafter. The Department believes that remedial training in the area of uses of force is essential to assisting in the correction of behavior, providing a learning opportunity, decreasing the likelihood of re-offending, and reducing the potential for future liability.

Areas of Special Significance

Regarding the determination of the appropriateness of a particular use of force, the Department considers the following areas to be of special significance and worthy of additional consideration and comment. They are:

- (1) The use of force to maintain “order and discipline;”
- (2) Interacting with inmates with mental health issues;
- (3) Issues related to the use of force on restrained individuals;
- (4) Ending the use of force once compliance or control is achieved;
- (5) The use of a Taser;
- (6) Physical restraint of individuals during and after a struggle;
- (7) The use of improvised force in a lethal force encounter; and
- (8) Shooting at or from moving vehicles.

The Use of Force to Maintain “Order and Discipline”

The Department grants deputies the authority to issue reasonable and appropriate orders to inmates to carry out the deputies’ duties and responsibilities; to enforce departmental rules, policies, and regulations; and to ensure the orderly functioning of Department facilities. Inmates are obligated and expected to follow those orders and otherwise to conform their conduct to Departmental rules applicable to them or to face administrative sanctions. Deputies are also granted the authority to take appropriate action including using appropriate force to ensure inmate compliance. Consequently, there is no prohibition against the use of force to maintain order and discipline provided the force is “reasonable and necessary” as defined in the Use of Force Policy and otherwise complies with all other applicable rules and policies of the Department.

Before using force, deputies are expected to use sound judgment in determining whether there is an immediate need for compliance with the order and in attempting to use non-force control options or other tactical options to gain compliance without resorting to force. This requires a consideration of the totality of the circumstances and the balancing of various approaches to “maintaining order and discipline” in a jail.

Deputies should note the policy itself recognizes that there may be circumstances in which warnings and other non-force alternatives such as verbal persuasion are impractical, ineffective, or not available. Even when non-force options are used, the situation may suddenly change. Under such circumstances, deputies are not required to exhaust or continue non-force alternatives prior to using force. (See section 5.A.4 of the Use of Force Policy).

Therefore, deputies must realize that there is not one set rule or approach to maintaining order in the jail. Not every refusal by an inmate to comply with orders or rules provides justification for the immediate use of force; nor is the immediate use of force prohibited in every refusal to comply. Deputies are expected to adapt their response to a refusal to comply with an order that would be reasonable based upon a consideration of the totality of the circumstances presented in that particular case and whether the use of force is “reasonable and necessary” as described in the Use of Force Policy.

Deputies should also note that, if an individual resists compliance with an order, resistance may range from verbal non-compliance to active aggression or higher. Therefore, if force is necessary, it must be reasonably related to the type of resistance displayed by the inmate and must be the least amount of force necessary to overcome that resistance.

Force may not be used: (i) in response to an inmate’s swearing, insults, or threats where there is no present ability to carry out the threat; (ii) as punishment or retaliation for failing to comply with an order; (iii) as a means of demonstrating the deputy’s authority to the inmate or others present; (iv) as a means of discouraging possible future resistance by the inmate or other inmates present; or (v) for any other improper purpose.

It is also important in this type of potential force scenario that deputies understand the distinctions among the various types of resistance described in the Use of Force Policy and the control/force options authorized for use against the type of resistance encountered. Of particular significance, is understanding what constitutes “active aggression” and how it is distinguished from “defensive resistance.” In responding to “active aggression” a deputy need not wait to be assaulted in order to use force, but the force employed by the deputy must meet the “reasonable and necessary” standard. Deputies must be able to articulate in their use of force reports, the specific facts and circumstances that justify their assessment of the type of resistance encountered and the reasonableness of the force option employed to meet that resistance.

Finally, as noted above, inmates are required to follow deputy orders and departmental rules or face administrative sanctions. Consequently, where inmates fail to comply with a deputy’s orders, deputies and supervisors should consider available administrative measures such as conduct adjustment, movement, or reclassification to address the failure to comply and to discourage non-compliance in the future.

Interacting with Inmates with Mental Health Issues or Other Impairments

DSD has increased training related to recognition and handling of inmates with mental health issues. The Use of Force policy places limitations on the use of certain force options where an inmate is known or reasonably should be known to have mental-health problems. It is expected that deputies will use reasonable efforts to de-escalate potential force encounters and employ tactical options to reduce the need to use force or the level of force necessary, when time and circumstances permit. In determining whether force is reasonable and necessary and, if so, determining the least amount of force necessary, deputies shall consider, when possible, whether the inmate's non-compliance or resistance is willful or a result of his/her mental state.

Deputies also frequently encounter inmates whose ability or willingness to comply are affected by other conditions such as alcohol or drug intoxication, developmental disabilities, physical limitations, emotional crises, or language barriers. To the extent such conditions are known or reasonably should be known to the deputy, deputies are expected to take these circumstances into consideration, when reasonably possible, in determining whether circumstances permit the use of de-escalation techniques and tactical options; whether force is necessary; and if so, the level of force necessary.

Issues Related to the Use of Force on Restrained Individuals

Section 10(B)(1)(4) of the Use of Force Policy prohibits the use of force on restrained individuals, except in certain circumstances. The policy recognizes that individuals might still be capable of resisting despite being restrained, and, therefore, authorizes the use of force on a restrained individual in the following situations:

- (1) Where the use of force is "reasonable and necessary" to gain compliance;
- (2) To stop or prevent a restrained individual from injuring himself or anyone else;
or
- (3) To stop or prevent a restrained individual from escaping.

In determining whether a use of force is "reasonable and necessary" with regard to a restrained individual, the deputy must consider the totality of the circumstances based upon the guidelines set forth above.

Ending the Use of Force Once Compliance or Control is Achieved

A basic principle of the Use of Force Policy is that deputies are prohibited from using force after compliance or control of an individual has been obtained. This raises a question for some deputies as to whether a control hold placed on an individual through which compliance is achieved by the application of pressure requires the deputy to abandon the control hold completely once the individual ceases resistance. The Use of Force Policy specifically allows a deputy to retain the control hold for a reasonable time without the application of force or pressure after the individual ceases to resist in order for the deputy to accomplish an authorized function such as moving the individual. This also allows the deputy to be in position to reapply pressure should the individual again resist. This provision is consistent with DSD defensive tactics training and generally accepted defensive tactics principles.

Use of a Taser

The Use of Force Policy places limitations on the circumstances under which a Taser may be used, potential target areas on the body, and the number of times and the length of time the Taser may be cycled. Under the Use of Force Policy, a Taser may be discharged only in cases of active or aggravated active aggression. The Taser may be displayed to an individual engaged in defensive resistance to help gain compliance but may not be pointed at that individual. As with any use of force, the use of the Taser must be “reasonable and necessary” as defined by the Use of Force Policy.

Physical Restraint of Individuals During and After a Struggle

Section 12 of the Use of Force Policy provides important guidance and cautions for a force scenario common in custodial settings – the attempt to gain control of and restrain a resisting individual not involved in active or aggravated active aggression. This may involve: (i) one or multiple deputies; (ii) an immediate need to use force or a “planned course of action;” (iii) an individual under the influence or affected with a mental health issues; and/or (iv) an individual exhibiting a significant amount of strength or resistance but not beyond “defensive resistance.” Where reasonable efforts to avoid the use of force or lessen the level of force are either impractical or not successful and force is necessary, deputies may use only the level of force authorized for passive or defensive resistance, unless the resistance escalates beyond that. In addition, deputies are expected to use every effort to not restrict the individual’s ability to breathe. These efforts may include, but are not limited to:

- (1) If possible, avoiding the use of the deputies’ body weight on a resisting individual in a manner that could restrict the individual’s breathing;
- (2) Where the use of the deputies’ body weight is necessary, immediately stopping the use of body weight on an individual’s back, head, neck, or abdomen once the individual is in restraints (handcuffs or otherwise);
- (3) Turning the individual on his/her side or allowing him/her to sit up once the resistance ceases and he/she is in restraints. Deputies shall avoid leaving the individual in a prone position once he/she is in restraints and has stopped actively resisting;
- (4) Being aware of any physical or verbal indication of the individual experiencing breathing problems. The fact that an individual is able to speak during or after a struggle does not necessarily mean that he/she is not experiencing breathing difficulties. When an individual indicates that he/she is having difficulty breathing, he/she shall be considered to have difficulty breathing;
- (5) Seeking immediate medical attention for the individual once he/she is restrained; and
- (6) Carefully monitoring the individual while awaiting medical assistance.

The Use of “Improvised” Force in a Lethal Force Encounter

Any use of force must comply with all applicable provisions of the Use of Force policy and other Department rules. Deputies must use force options authorized and trained by the Department and employ them in a manner approved by the Department. Nonetheless, the Department recognizes that a deputy may become involved in an encounter where lethal force is reasonable and necessary to defend himself/herself or a third party against the use or imminent use of lethal force. In such a case, the deputy is authorized to use whatever force is necessary or whatever force technique, device, or instrument is available to overcome the threat of death or serious bodily injury. However, deputies are not authorized to carry any device or instrument in violation of any Department order, rule, or policy or federal, state, or local law.

Shooting at or From Moving Vehicles

Based upon their primary duties and responsibilities and the Department’s prohibition against deputies becoming involved in vehicle pursuits, Denver deputy sheriffs are less likely to face potential force scenarios involving shooting at or from moving vehicles than other law enforcement agencies. Nevertheless, based upon the potential risks involved, the Use of Force Policy contains provisions regarding shooting at or from moving vehicles with which deputies must comply.

- Deputies are prohibited from firing at moving vehicles, including the tires of vehicles, unless lethal force is being used against a deputy or other person by means other than the moving vehicle.
- Deputies shall exercise good judgment and not move into or remain in the path of a moving vehicle. A deputy in the path of a vehicle shall attempt to move to a position of safety rather than discharging a firearm at the vehicle or its occupants.
- Deputies shall not fire from a moving vehicle except in self-defense or defense of another from what the deputy reasonably believes to be the use or imminent use of lethal force.

The “Duty to Intervene to Stop the Use of Inappropriate Force”

The DSD Use of Force Policy reads as follows:

Deputies are required to intervene to prevent or stop any other law enforcement officer--without regard for the chain of command or rank of the individual using force--from using physical force that exceeds the force permitted by C.R.S. §18-1-707.

In accordance with (C.R.S. §18-8-802(1.5)), deputies that fail to intervene or fail to report when any law enforcement officer engages in the use of force not permitted under Colorado law excessive force commit a Class 1 misdemeanor and may be subject to additional criminal charges, due to their failure to intervene.

The duty to intervene in the use of inappropriate force obligates any deputy who believes that

he or she is witnessing an inappropriate use of force on an individual or an animal by another law enforcement officer, including a fellow deputy to:

- (1) Intervene to stop the use of inappropriate force where there is a realistic and reasonable opportunity to do so to prevent the further use of inappropriate force; and
- (2) To comply with the duty to report the use of inappropriate force, regardless of whether there was a realistic and reasonable opportunity to intervene.

Deputies and reviewers should note that the duty to intervene is not limited or affected by the rank or seniority of the person using force. Reviewers must consider the duty to intervene when more than one deputy is present during a use of force incident.

As interpreted and applied by the Department, the duty to intervene to stop the use of inappropriate force is separate from the duty to immediately notify a supervisor. Therefore, where there is a realistic and reasonable opportunity to physically intervene to stop the use of inappropriate force, merely notifying a supervisor will not satisfy the duty to intervene.

Proof of Violation of the Duty to Intervene

Reviewers should note that, in order to prove a violation of the duty to intervene, there must be a preponderance of the evidence to establish that:

- (1) The deputy witnessing the use of force knew or reasonably should have known, based upon the totality of the circumstances, that the force being used by the offending deputy was inappropriate as defined by the DSD Use of Force Policy; and
- (2) There was a realistic and reasonable opportunity to intervene to stop the inappropriate use of force.

Determining Appropriate Discipline for a Violation of the Duty to Intervene to Stop the Use of Inappropriate Force on a Person

The Department has determined that the rationale for the creation of the duty to intervene to stop the use of inappropriate force on a person is a critical component of the Department's goal of promoting and maintaining a culture of accountability with regard to uses of inappropriate force.

Consequently, the Department has also determined that the disciplinary sanction for the failure to intervene to stop a use of inappropriate force on a person should be commensurate with the disciplinary sanction for the use of inappropriate force itself. Furthermore, the results of any internal investigation finding that a deputy failed to intervene to prevent excessive use of force by another staff member is required to be reported to the District Attorney's Office to determine whether charges should be filed. Investigative findings into the actions of peace officers will include determinations as to whether or not the peace officer acted in bad faith and without a reasonable belief that the action(s) in question were lawful.

Upon substantiated finding by an investigative body that a deputy failed to intervene to

prevent excessive use of force which led to serious bodily injury or death, the subject(s) of that investigation will be disciplined up to and including termination. Those subjects with POST certification will be reported to the POST board for permanent decertification.

As with any violation, the presumptive penalty is derived from the application of the appropriate conduct category to the matrix tables and the consideration of any prior discipline that mandatorily increases the discipline level (section 18.0). However, that penalty is subject to being decreased or increased by the careful consideration of mitigating, aggravating, or special circumstances and the application of the weighing process as described in sections 19.0 through 25.0 of the Discipline Handbook.

Use of Force Against Animals

The DSD recognizes the value that society places on animals, particularly domesticated animals, and protecting them from injury and abuse. It likewise recognizes the complexity and importance of the relationship between humans and animals, the rights of animal owners to be free from unreasonable law enforcement interference in that relationship, and the right to life of all animals especially the domesticated animal population.

The issue of the use of force against animals by law enforcement has become a subject of nation-wide discussion and proposed reform, particularly with regard to officers' encounters with dogs. Increasingly, officers and their employers are becoming the subject of civil lawsuits and intense public scrutiny and outcry based upon the perceived use of inappropriate force against dogs. Officers using inappropriate force may also be subject to criminal prosecution.

The state of Colorado has enacted what is known as the "Dog Protection Act." Its stated policy is "to prevent, whenever possible, the shooting of dogs by local law enforcement officers in the course of performing their official duties." Part of the requirements of the Act, obligates all local law enforcement agencies in the state to adopt policies and procedures for use of lethal and non-lethal force against dogs which must:

- (1) Emphasize alternative methods that may be employed when dogs are encountered; and
- (2) Allow a dog owner or animal control officer, if feasible, the opportunity to control or remove a dog from the immediate area in order to allow a local law enforcement officer to discharge his or her duties.

Section 15 of the Use of Force Policy conforms to the provisions of the Dog Protection Act.

The policy is based upon the following general principles:

- (1) Where possible, devising a plan for dealing with the animal without the use of deadly force;
- (2) Where feasible, allowing the owner/caretaker of the animal or, if present, an animal control officer, to take control of the animal or to remove the animal prior to any enforcement action. In allowing this option, the deputy must take into account the totality of the circumstances, including but not limited to: (i) the

- safety of the deputies involved; (ii) the safety of others; (iii) the enforcement action contemplated; (iv) any knowledge of prior aggression or prior harm caused by the animal; (v) any suspected criminal activity such as narcotics trafficking at the location of the encounter; or (vi) any other exigency;
- (3) Reasonably assessing the threat the animal poses to the safety of the deputies or others, based upon the actions of the animal and all other facts and circumstances known or that reasonably should have been known to the deputy;
 - (4) Reasonably assessing the force option necessary, if any, to bring the animal under control or to otherwise overcome the threat posed, bearing in mind the law's stated policy of preventing the use of lethal force against dogs, when possible;
 - (5) Rendering or seeking assistance for any person injured by the animal;
 - (6) Rendering or seeking assistance for any injured animal; and
 - (7) Considering the use of lethal force to humanely end an animal's suffering.

Standard by Which the Appropriateness of a Use of Force Against Animals is Judged

The Executive Director of Safety and the Sheriff have determined that the stricter standard of "reasonable and necessary" as defined in the Use of Force Policy with regard to the use of force against individuals (persons) shall not be applied to the use of force against animals. The EDOS and Sheriff have reasoned that the rationale for the use of the stricter standard and the factors taken into consideration for determining the appropriateness of a use of force against individuals, while somewhat applicable, are largely impractical when applied to animals.

Consequently, the standard to be applied is one of "objective reasonableness" based upon the totality of the circumstances. Because the standard is an objective one, the deputy's actions will be measured against actions that would be expected of the reasonable deputy sheriff under similar circumstances when applying the provisions of the Use of Force Policy as they relate to animals. In making the determination of reasonableness, the reviewer must use only those facts known or that reasonably should have been known by the deputy prior to the use of force.

In determining the appropriateness of the particular use of force under review, the following factors should be considered. This is not intended to be an exhaustive list:

- (1) The location of the encounter with the animal;
- (2) The physical characteristics and actions of the animal indicating a threat to the deputy or others;
- (3) The proximity or immediacy of the threat;
- (4) Any knowledge of the animal's propensities for, or history of, harming others;
- (5) The availability and practicality of non-force, tactical, or less lethal options;

- (6) Whether non-force or less lethal options had been tried but were unsuccessful or impractical under the circumstances;
- (7) Whether the force was decreased or stopped as the threat decreased or ended;
- (8) Whether the force was used for a legitimate law enforcement purpose; and
- (9) Whether the instrument or device used to apply force was authorized by the Department and used in a manner authorized by the Department.

Determining Appropriate Discipline for the Inappropriate Use of Force Against Animals

In considering appropriate discipline for the use of inappropriate force against animals, the EDOS and the Sheriff have concluded that the rationale for disciplinary sanctions involving force on individuals is fundamentally different and more stringent than that related to animals. Therefore, the Executive Director has determined that the purposes of discipline can best be achieved through the application of Conduct Category D for any use of force on an animal determined not to fall within Conduct Category F. The Department provides the following guidance as to what should constitute a Conduct Category F violation involving the use of inappropriate force against animals:

- (1) Where the force foreseeably results in death or serious injury to the animal.
- (2) Where the force was cruel or abusive or intended to cause unnecessary pain, regardless of the extent of injury to the animal.
- (3) Where the force was unreasonably continued after any threat by the animal ceased, regardless of the extent of injury to the animal.
- (4) Where the force was significantly disproportionate to the threat posed by the animal, regardless of the extent of injury to the animal.
- (5) Where the force was used under circumstances demonstrating an effort or intention to avoid detection, suppress reporting, or otherwise impede discovery or review of the inappropriate use, or attempted use, of force, regardless of the extent of injury to the animal.
- (6) Where the force was used on a restrained or particularly vulnerable animal with no ability to present a credible threat, regardless of the extent of injury to the animal.
- (7) Where the use of force was provoked or instigated by the deputy using or attempting force, regardless of the extent of injury to the animal.
- (8) Where the use of a force technique was not authorized by the Department or any weapon, device, or instrument carried or possessed by the deputy prior to the use of force encounter was in violation of the law or any Departmental rule or policy.

As with any other violation, the presumptive penalty is derived from the application of the appropriate conduct category to the matrix tables and the consideration of any prior discipline that mandatorily increases the discipline level (section 18.0). However, that penalty is subject to being decreased or increased by the careful consideration of mitigating, aggravating, or special circumstances and the application of the weighing process as described in sections 19.0 through 25.0 of this Discipline Handbook.

Duty to Intervene to Stop the Use of Inappropriate Force on Animals

The duty to intervene to stop the use of inappropriate force also applies to animals. Consequently, the elements that must be proven for such a violation are the same as those that must be proven with regard to inappropriate force on persons. Similarly, the Department has determined that the conduct categories applicable to the violation of the duty to intervene to stop the use of inappropriate force against animals should be commensurate with the conduct categories applicable to the use of inappropriate force against animals itself.

Use of Force Reporting

Detailed, accurate, and timely reporting of all uses and attempted uses of force is essential to the Department's goal of promoting and maintaining a culture where all instances of the use of force are properly reviewed and investigated, deputies determined to be misusing or abusing the authority to use force are held appropriately accountable, and the use of inappropriate force is not encouraged, condoned, or tolerated in any way.

The requirements for compliance with the obligation to report the use or attempted use of force are contained in the Report Writing Policy.

Determining Appropriate Discipline for Failure to Report Use of Force

The Use of Force Policy and corresponding rules (RR-200.2, Reporting of Use of Force on a Person, and RR-200.2.1, Reporting of Use of Force on Animals) require that a deputy or employee who participates in a use of force, witnesses a use of force, or is present during a use of force incident but states he/she did not observe that use of force, must immediately, or as soon as possible under the circumstances, report that use of force to an on-duty supervisor and prepare a written report prior to the end of the shift.

Discipline for the failure to report the use of force is based upon the following considerations:

(i) whether the subject deputy used force in the incident or was a "witness" or "person present" who claimed that he or she did not see the actual use of force; (ii) whether the force was against a person or an animal; and (iii) whether inappropriate force was abusive.

For reasons previously stated in this Appendix C, (under the heading "The Critical Importance of the Department's Effectively Managing Uses of Force") the Department recognizes that the failure to report force on a person constitutes a substantial interference in the Department's ability to accomplish its core mission of providing safe and secure custody for persons placed in its care, in a manner consistent with its guiding principles.

Similarly, for reasons stated in the Use of Force Policy, the Department has concerns about

the reporting of use of force on animals even though dealing with animals is not a core function of the Department. Therefore, where the use of force, whether on a person or an animal, is found to be inappropriate, the Department has determined that the failure to report that force should be treated as a similarly serious violation.

As with any violation, the presumptive penalty would be derived from the application of the appropriate conduct category to the matrix tables and the consideration of any prior discipline that mandatorily increases the discipline level (section 18.0). However, that penalty is subject to being decreased or increased by the careful consideration of mitigating, aggravating, or special circumstances and the application of the weighing process as described in sections 19.0 through 25.0 of the Discipline Handbook.

Additional Notice and Reporting Provisions of the Use of Force Policy

Deputies and reviewers must keep in mind that the Use of Force Policy and Report Writing Policy contains additional notice and reporting requirements not covered by RR-200.2, Reporting of Use of Force on a Person; and RR-200.2.1, Reporting of Use of Force on Animals. These include, but are not limited to, the following:

- (1) Immediately requesting medical attention and contacting the local law enforcement in accordance with the Department's firearms discharge protocol;
- (2) Preparation of a written report by any personnel witnessing or participating in any threat of using physical force by pointing and/or displaying a weapon;
- (3) Preparation of a written report following a discharge of a firearm or other weapon including less lethal weapons;
- (4) Preparation of a written report when an individual dies while being apprehended or in custody;
- (5) Immediate notification of medical personnel following a use of force; and
- (6) Immediate oral reporting to an on-duty supervisor by any personnel who was not a "participant in," "witness," or a "person present" but who is "made aware of" a use, or attempted use, of force by any source having firsthand knowledge of the force incident. This provision also includes the preparation of a written report if ordered by a supervisor.

Where disciplinary action is taken for the violation of any of these provisions, it likely will be alleged using RR-300.19.1, Disobedience of Rule, with a reference to the particular provision of the policy violated. RR-300.19.1 is a general rule that is assigned to all conduct categories. Therefore, any reviewer would have to conduct the analysis outlined in section 15.0 of the Discipline Handbook to determine the most appropriate conduct category.

As with any violation, the presumptive penalty would then be derived from the application of the appropriate conduct category to the matrix tables and the consideration of any prior discipline that mandatorily increases the discipline level (section 18.0). However, that penalty is subject to being decreased or increased by the careful consideration of mitigating, aggravating, or special circumstances and the application of the weighing process as described in sections 19.0 through 25.0 of the Discipline Handbook.

Additional Review Standards in Use of Force Cases

The EDOS (or designee) will make a determination on whether or not the subject deputy acted in “good faith and with reasonable belief that the action taken was lawful” when reviewing use of force and failure to intervene cases. If the EDOS or designee determines the subject deputy did not act upon a good faith and reasonable belief that the action was lawful, then the deputy may be personally liable in future civil lawsuits arising from the action.

Humiliating, Cruel, or Harassing Treatment of Prisoners and Reporting of Humiliating, Cruel, or Harassing Treatment of Prisoners

The Department will not tolerate humiliating, cruel, or harassing treatment of prisoners. To address this, RR-400.4.1 is assigned to Conduct Categories E and F. A violation of this rule can be established even without a complaint by an inmate.

Additionally, the Department recognizes the importance of reporting humiliating, cruel, or harassing treatment of prisoners by deputy sheriffs or employees, and has assigned RR-400.4.1.1 to Conduct Categories D through F, commensurate with reporting of inappropriate force on persons.

Erroneous Release

One of the deputies’ core duties is to maintain custody and control of inmates. Erroneously releasing an inmate is obviously contrary to that core duty and carries with it an increased risk to the Department, inmates, and the public. A violation of this rule, RR-400.4.4, is assigned to Conduct Categories C through E.

Physical Abuse of Prisoners

Physical Abuse of Prisoners – RR-400.6 prohibits deputies and employees from inflicting physical abuse on inmates or from soliciting others to do so. Physical injury is not required to establish a violation of this rule. Because the core function of the Department is to provide for the care and custody of inmates and because physical abuse of prisoners is antithetical to proper care and custody of inmates, a violation of RR-400.6 is a Conduct Category F offense.

Sexual Misconduct

Issues relating to sexual misconduct are handled under RR-300.10.2, Sexual Misconduct, reads as follows: “While on duty, deputy sheriffs and employees shall not engage in any conduct or solicit another to engage in any conduct for the purpose of sexual gratification, sexual humiliation, or sexual abuse. The same conduct is prohibited while off duty, either in uniform in a public place or in any vehicle or facility to which a deputy or employee has access by virtue of his/her authority. The consent of another to engage in such sexual conduct or sexual acts is immaterial to finding a violation of the rule.”

The purpose of RR-300.10.2 is to prohibit sexual conduct that a deputy or employee should reasonably know is inappropriate to engage in while on duty, or when off duty in uniform in a public place, or in any Department vehicle or facility. Such inappropriate conduct is not limited to sexual intercourse or oral sex but includes any sexual conduct that a reasonable member of the Department should anticipate is offensive to the Department or the public in light of the duties and authority with which deputies and employees are entrusted. It should be emphasized that the purpose of the rule is not to control a deputy sheriff's or employee's private sex life. The rule attempts, rather, to keep Department members' private lives separate from their roles and responsibilities as deputy sheriffs and employees.

Sexual misconduct as defined by RR-300.10.2 constitutes a willful and wanton disregard of the guiding principles of the Department, such as Integrity and Ethics. It also demonstrates a serious lack of integrity, ethics, character, or fitness to hold the position of Denver deputy sheriff. As such, the presumptive penalty for a first-time offender of RR-300.10.2 is dismissal.

Only when appropriate mitigating circumstances exist would the mitigated penalty of a 90-day suspension be imposed. And only with extraordinary mitigation would an offender receive a sanction less than a 90-day suspension.

Sleeping on Duty, Conducting Rounds, Protecting Prisoners, & Attention to Duties

The core mission of the Sheriff Department is to provide for the care and custody of its inmates. Sleeping on duty, failing to conduct complete rounds as required, failing to protect prisoners, and failing to be attentive while on duty can endanger the safety of inmates, the involved deputy, other deputy sheriffs, employees, and even the public at large. This conduct can also compromise the security of the facility and result in the Department's inability to protect the Constitutional rights of its prisoners and the lives of prisoners, deputies, and employees. In addition, such failures can result in enormous civil liability to the City.

RR-200.11 prohibits sleeping on duty: "Deputy sheriffs and employees shall not sleep while on duty." Obviously, one of the Department's core duties is to maintain care and custody of inmates. Sleeping on duty is contrary to that core duty and carries an increased risk to the Department, inmates, and public.

RR-400.8.2 requires deputies to conduct required rounds: "Deputy sheriffs shall not willfully or negligently fail to make their required rounds. Making rounds requires that a deputy ensure safety within housing units and the welfare of each inmate." Deputies that simply walk through a housing unit without checking each cell will not be deemed to have completed that round. Due to the critical nature of conducting rounds in a correctional facility and the numerous consequences that can result from the failure to conduct rounds, the Department has determined that a violation of RR-400.8.2 is, at a minimum, a Conduct Category D and, depending on the circumstances, may range up to a Conduct Category F resulting in a presumptive dismissal. Any reviewer must perform the analysis detailed in section 15.0 to

determine the most appropriate Conduct Category in a particular case.

RR-400.8.1 (Protecting Prisoners from Harming Themselves or Other Prisoners) addresses the duties of a deputy sheriff to protect a prisoner from the harm described in the rule. As noted in the first paragraph of this section, those duties are part of the core mission of the Sheriff Department and the failure to carry them out can have significant consequences. The Department recognizes the importance of ensuring that prisoners are protected from harming themselves and other prisoners. The seriousness of the misconduct is reflected in the assignment of the rule violation to Conduct Categories D through F.

RR-400.8.5 addresses lighting in the housing facility pursuant to the Department's Post Order. One of the Department's core duties is to maintain care and custody of inmates. Keeping the lights on at required times maintains a safe environment that permits deputy sheriffs and employees to perform all other essential duties of their positions. Inappropriately dimming the lights carries with it an increased risk to the Department, inmates, and the public. Assigning the rule violation to Conduct Categories D through F reflects the importance of keeping the lights on and the potential impact of inappropriately dimming them.

Finally, RR-200.9 (Full Attention to Duties) may arguably be applied to a myriad of circumstances. Obviously, the harm being protected against would vary based upon the nature of the deputy's assigned post, the duties and responsibilities of that post, and the harm that results from his/her failure to devote full attention to his/her duties. Therefore, RR-200.9 may fit the definition of any of the Conduct Categories (A – F) based upon the particular circumstances of the case.

Conduct Prejudicial

RR-300.11.6 now provides:

Deputy sheriffs and employees shall not engage in conduct that: (i) is prejudicial to the good order and effectiveness of the Department; (ii) brings disrepute on, or compromises, the integrity of the City or the Department; or (ii) is unbecoming of a deputy sheriff.

The Department/Executive Director of Safety may sustain a violation of RR-300.11.6 either: (1) when the misconduct at issue is not addressed in other Department rules or policies; or (2) when the misconduct is addressed in other Department rules or policies, the Department/Executive Director of Safety is charging the Deputy with a violation of one or more of those rules or policies, and RR-300.11.6 is being charged as an alternative to those other rules or policy violations. When the violation of RR-300.11.6 is alleged as an alternative to other rule violations, the Department/Executive Director of Safety should impose a penalty for Conduct Prejudicial that is not greater than the greatest penalty for any of the alternative rule violations. Also, the penalty for the violation of RR-300.11.6 should run concurrently with the penalties for the alternative rule violations. A reviewing body may affirm both the RR-300.11.6 violation and the alternative rule violations if the penalty for RR-300.11.6 runs concurrently with the penalties for the alternative rule violations. Reviewers are cautioned that sustaining a violation for RR-300.11.6 and that having the penalties for RR-300.11.6

and the alternative rule violations run consecutively could result in a “stacking of charges” as outlined in section 32.8 of these Conduct Principles and Disciplinary Guidelines.

Driving Violations Resulting in Injury or Death

Both DSD policy and training provided to deputies emphasize the importance of driving safely when operating a Department vehicle or while on duty in any vehicle. Statistics have consistently shown that more law enforcement officers are killed and injured as the result of traffic collisions than any other reason. In cases involving collisions that result from violations of the law or of the Department’s driving or pursuit policies, life changing injuries and psychological harm can be sustained by innocent victims, physical and psychological harm can be sustained by the involved deputies, and large civil payouts can be expected to be made by the City. Deputies must not allow emotion to overtake caution, reason, and common sense when driving Department vehicles.

Consequently, a deputy who drives in violation of the law, any policy or traffic regulation, or the Department’s driving or pursuit policies may well place himself, his fellow deputies, other employees, and/or the public at risk for serious injury or death.

A deputy who drives in violation of the law, any policy or traffic regulation, or the Department’s driving or pursuit policies and who foreseeably causes death or serious bodily injury to any person (including the involved deputy) should expect to be dismissed or disciplined in accordance with Conduct Category F of the disciplinary matrix (as required by that portion of the Conduct Category F definition that includes: “Misconduct that (i) foreseeably results in death or serious bodily injury”). This categorization reflects the stated goals and purposes of disciplinary sanctions as set forth in section 11.0 of this Handbook.

The fact that a person suffers death or serious bodily injury as the foreseeable result of a deputy’s violation of the aforementioned policies does not automatically mean that the deputy will be terminated. As described in section 19.0 of this Handbook, the reviewer must consider all the circumstances of the case to determine whether the mitigated penalty or the presumptive penalty should be imposed. In addition, as indicated in section 25.0 of this Handbook, special circumstances involving extraordinary mitigation could justify a penalty less than that indicated in the matrix for a Conduct Category F violation.

The reviewer is directed to the stated goals and purposes of disciplinary sanctions as stated in section 11.0 of this Handbook. Specifically, discipline is to be “fair and rational” and reasonably related to the conduct being addressed (§ 11.1) and dependent on all the facts and circumstances of the case (§ 11.2).

Soliciting Preferential Treatment

All members of the Department must understand that the inappropriate use of their position as a member of the Department to solicit any preferential treatment or to solicit any benefit to which they would not otherwise be entitled is highly objectionable and, if proven, will be disciplined accordingly. It is important to the reputation of the Department and compliance with the guiding principles such as Integrity and Ethics that all Department members conduct themselves in a manner that does not create the perception, particularly in other agencies and the public, that Department members have an expectation of being treated differently,

believe they are entitled to benefits to which others would not be entitled under similar circumstances, or should not be held as accountable for their actions as others would be.

The rule regarding soliciting preferential treatment reads as follows:

RR-300.2 – Soliciting Preferential Treatment

Deputy sheriffs and employees shall not display any badge or Department identification, identify themselves as Department members, or otherwise attempt to use their position as Department members to solicit or attempt to solicit any preferential treatment not extended to the general public or to solicit or attempt to obtain any benefit to which they would not otherwise be entitled, except in furtherance of official duties or as allowed by Department or City rule, policy, procedure, or authorized practice.

Violations of this rule can arise under various circumstances. Therefore, the determination of the appropriate discipline must be based on the totality of the particular circumstances. Factors that may be considered include, but are not limited to, the intent of the offending deputy or employee, the type of preferential treatment or benefit being solicited, the person or entity being solicited, and the manner in which the solicitation is carried out or attempted.

However, all these variables notwithstanding, the Department has determined that a violation of RR-300.2 is, at a minimum, a Conduct Category C violation in that it has a “pronounced negative impact on the professional image of the Department; or on relationships with other.... agencies or the public” and, depending on the particular circumstances, may rise as high as a Conduct Category F, resulting in a presumptive dismissal. Any reviewer must perform the analysis detailed in section 15.0 and apply the specific definitions of Conduct Categories C, D, E, and F to determine the most appropriate category.

One factual situation of note occurs when a deputy sheriff is stopped by another law enforcement officer for a traffic violation. No deputy sheriff should expect that he/she is entitled to be treated differently in that circumstance from the general public. Nor should that deputy attempt to dissuade the officer from carrying out his/her duties based upon the fact that the deputy and other law enforcement officer are “fellow law enforcement officers.”

Nonetheless, whenever a deputy sheriff who is carrying a concealed weapon is contacted by a law enforcement officer, safety considerations may mandate that the deputy immediately inform the contacting officer that he or she is a deputy and is in possession of a weapon. However, under no circumstances should a deputy attempt to obtain preferential treatment based on his or her employment status.

Disobeying Lawful Orders, Conflicting Orders, and Unlawful Orders

RR-200.13.1 – Disobeying Lawful Order provides that deputy sheriffs and employees shall not disobey any lawful order of a supervisor, including supervisory orders relayed by a person of lesser or equal rank. Command and supervisory officers will be responsible for knowing whether their orders comply with all applicable Department and legal requirements.

However, a situation may arise where a deputy sheriff or employee believes that an order conflicts with another order or directive or that an order is unlawful.

Conflicting Orders

Deputy sheriffs and employees who receive an order that conflicts with a previous order or directive will bring the conflict to the attention of the supervisor issuing the most recent order and ask for a resolution. If the supervisor affirms the most recent order as given, the employee will obey that order and will not be disciplined or otherwise penalized for disobeying the previous order. If the supervisor who issued the recent order or a supervisor of greater rank is not readily available to resolve the conflict, the deputy sheriff or employee will carry out the most recent order and advise a supervisor as soon as possible.

Unlawful Orders

If a deputy sheriff or employee receives an order he or she reasonably believes to be unlawful, the employee will inform the supervisor issuing the order and ask for a resolution. If the unlawful order is not altered or retracted by the issuing supervisor or if the issuing supervisor is not readily available, the employee will notify a supervisor of equal or greater rank to the supervisor who gave the order. The employee will not be disciplined or otherwise penalized for disobedience if the order is found to be unlawful.

Definitions and Explanations of Terms

Definitions of Bodily Injury and Serious Bodily Injury

In determining extent of injury, when relevant to discipline, the definitions in Colorado Revised Statutes shall apply:

“Bodily injury” means physical pain, illness, or any impairment of physical or mental condition. C.R.S. 18-1-901(3)(c).

“Serious Bodily Injury” means a serious impairment of a physical condition, including but not limited to injuries which involve a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, breaks, fractures, or burns of the second or third degree, or loss of consciousness. [Note: This definition of “serious bodily injury” differs from the definition set forth in C.R.S. § 18-1-901(3)(p).]

Intent of References to the “Public,” “Community,” “Citizens,” or Similar Descriptions

Throughout this Handbook and in various Department rules or policies, references are made to the public such as in “public safety” or to the community or citizenry such as in “the community it serves.” Such references are not intended to exclude inmates being held in Department custody. Only where the plain reading of the language of a particular rule, policy, or section of this Handbook clearly demonstrates the intent to differentiate an inmate from the general public should such a distinction be interpreted or made.

Deputy or Deputy Sheriff

Throughout this Handbook and Department Rules and Regulations, references are made to “deputy” or “deputy sheriff.” These references are intended to include all sworn members of

the Denver Sheriff Department regardless of rank.

The “Rank of Deputy Sheriff”

This reference is intended to include all deputies who do not hold the supervisory or command ranks of Sergeant, Captain, Major, Division Chief, Chief, or Sheriff.

Employee

Throughout this Handbook and in Department Rules and Regulations, “employee” is intended to mean all non-sworn (civilian)/members of the Denver Sheriff Department.

Delegation of the Duties and Responsibilities of the Executive Director of Safety and Sheriff

Throughout this Handbook, references are made to the duties and responsibilities of the Executive Director of Safety and Sheriff regarding the administration of the discipline system. These references are also intended to apply to any person who may be delegated these duties and responsibilities by the Executive Director of Safety or Sheriff or to any person who by law or Department of Safety or Sheriff Department policy may be designated to act on behalf of the Executive Director of Safety or Sheriff.

References to “Rules and Regulations,” “Policies,” “Procedures,” and the Like

Throughout this Handbook, specific and general references are made to such things as Rules and Regulations, Career Service Rules, Mayor’s Executive Orders, directives, rules, policies, procedures, post orders, and the like. The use of any one reference is not intended to exclude the others and is not intended to exclude any source that describes or controls the duties, responsibilities, and conduct of deputy sheriffs.

References to “Inmates”

Throughout this Handbook and in various department rules and policies, individuals in the custody of the Department are referred to as inmates. For the purposes of the determination of issues related to discipline, this reference is intended to generally include anyone in custody and not a reference to the individual’s pre-conviction or post-conviction status.

References to “Abusive” Conduct or the “Abuse of Authority”

In certain instances in this discipline system, distinctions are made between “misuse” of a person, instrumentality, power or authority and “abuse.” Generally, “misuse” is intended to mean taking some action or using some authority in the wrong way or for the wrong purpose. “Abuse,” on the other hand, denotes a greater degree of improper use of power or authority or an act which results in greater harm. Factors to consider include, but are not limited to: (i) the motive or intent of the actor; (ii) the nature and purpose of the act; (iii) the position, status, or vulnerability of the person against whom the action is directed; (iv) the harm that results from the action; and (v) whether the improper or harmful acts are repeated.



SHERIFF DEPARTMENT OF THE
CITY AND COUNTY OF DENVER
DENVER, COLORADO

NON-DISCIPLINARY PROGRAMS

APPENDIX D

UPDATED FEBRUARY 1, 2024

Approved by the
CITY ATTORNEY'S OFFICE
EXECUTIVE DIRECTOR OF SAFETY
SHERIFF

Appendix D- Non-Disciplinary Programs

Disciplinary Advisory Group - Program's Committee Intervention Menu

Law Violations

Anger Management
Behavior Modification
Domestic Violence Classes
Ethics Classes
Family Relationship
Mentoring
Psychological Counseling

Rough/Careless Handling of City & Department Property

Anger Management
Mentoring
Skills Training
Performance and Pursuit Driving
Process vs. Outcome Training
Remedial Driving
Stress Management

Court Matters

Anger Management
Behavior Modification
Mentoring
Court Room Testimony
Stress/Anxiety Management
Writing Skills

Discourtesy

Anger Management
Behavior Modification
Diversity Training
Communication/De-Escalation Training
Cultural Competency and Communication
Skills
Customer Service
Dealing with Difficult People
Interpersonal Communication
Mentoring
Physical/Duty Skills Training
Stress Management
Process vs. Outcome Thinking
Psychological/Emotional Counseling
Tactical Communications
Interdisciplinary Conflict

**Training Classes -
Denver Sheriff Academy
720-865-3859**

Continuing Education Programs (CEP)

Career Development

- A. Business Writing for Professionals
- B. Mistake-free Grammar and Proofreading
- C. Time Management
- D. Effective Business Writing Skills
- E. Customer Service
- F. Career Service Authority Rules
- G. Intergenerational Training

Supervisory/Command

- A. Active Supervision: Making a Positive Difference
- B. Coaching for Today's Leader
- C. Business Writing
- D. Ethics in Leadership
- E. Writing Evaluations

Wellness

- A. Stress Management
- B. Nutrition/Diet
- C. Physical Fitness

Officer Safety

- A. C4 Refresher Course
- B. Defensive Tactics for Law Enforcement
- C. Defensive Driving
- D. Tactical Environment
- E. Range 3000
- F. Cultural Diversity
- G. Decisional Shooting
- H. Building Search Tactics

Recruit Training

Use of Force
Stress Management & PTSD
Ethics
Off-Duty Incidents
Dealing with Upset Citizens
Arrest Powers
CSA Rule Domestic Violence
Diversity/Gender Bias
Cultural Awareness
Handling Incidents
Scenarios

C4 Defensive Tactics
Crime Scene Preservation
Report Writing
Fraternization
Officer Survival
What If/Critical Thinking
Effective Communication

Nicoletti-Flater & Associates
720-989-1617

Counseling Sessions

Officer and Public Safety Psychology
Crisis Intervention
Trauma Recovery
Violence Prevention
Substance Abuse
Family/Relationships

Training Classes

Anger Management
Behavior Modification
Modification Communication/De-escalation/
Conflict Resolution
Dealing with Mental Health Populations/
Personality Disorders
Domestic Violence
Family/Relationship Stress
Fear/Anxiety Related Problems
Advanced Training Skills for Struggling
Recruits
Study Skills
Stress Management
Grief and Loss
Interpersonal Communication/Employees of
New Millennium
Managing Difficult People
Organization and Time Management
Performance/Test Anxiety
Process vs. Outcome Thinking
Psychological and/or Emotional Difficulties
Return to Duty Consultations
Sleep Disorders
Stress Management to Prevent PTSD
Suicide Awareness
Trauma Intervention after Incident
Substance Abuse, R/X, Alcohol
Crisis Intervention PTSD

Guidance Resources

www.guidanceresources.com
(Web ID is DENVEREAP)
1-877-327-3854

Counseling Sessions

Financial Advice
Legal Support
Work-Life Resources

Online Resources and Information**Colorado Crisis Services**

8-844-493-talk (8255)
www.communitycrisisconnection.org

24/7 Crisis Hotline

Mental Health
Substance Abuse

Financial Assistance

www.tiaa-cref.org/tcm/Denver
www.denvergov.org/457
1-855-259-4648

TIAA

www.mpoweredcolorado.org
720-944-2498

Financial Empowerment Centers

www.denvercommunitycoop/
clear-money
303-333-2910

Denver Community Credit Union

www.rmlefcu.org
303-458-6660

**Rocky Mountain Law Enforcement
Credit Union****Health Matters at Work**

www.healthmattersatwork.org/
denverwellness

**Centralized Website for City and County
Denver Employees**

Health Information
Local Support for Diseases/Conditions
Webinars and Podcasts
Links to Classes and Workshops

myStrength

www.mystrength.com

Depression and Anxiety
Substance Abuse
Online Wellness Assessment

Public Safety Specific Resources

www.desertwaters.com	<u>Desert Waters Correctional Outreach</u> Correctional Fatigue PTSD “Correctional Oasis” Newsletter
Ninic.gov/healthwellnesscorrectionsprofessionals	<u>National Institute of Corrections</u> Correctional Fatigue Health and Wellness Stress Management
www.iacp.org/centerforofficersafetyandwellness	<u>International Association of Chiefs of Police (IACP)</u> Website – Center for Officer Safety & Wellness - Mental Health - Physical Health - Financial Wellness - Workplace Safety
www.wivesbehindthebadge.org	<u>Wives Behind the Badge</u>
www.badgeoflife.com	<u>The Badge of Life</u> - Supports those impacted by suicide
www.comingoutfrombehindthebadge.com	<u>Coming Out From Behind the Badge</u> - Supports gay, lesbian, bisexual and transgender persons
www.dacaa.org 303-322-4440	<u>Alcoholics Anonymous</u>
Denver Sheriff Academy **	720-865-3859
Nicoletti-Flater-Associates ^^	720-989-1617
DSD Psychology Department ++	303-640-0737 (Pager) 303-607-7460 (Pager)
Peer Support # #	303-435-0637
Chaplains Unit	303-435-2028
Office of Employee Assistance (OEA)	720-913-3205
Denver Employees Emergency Program (DEEP)	720-865-3337



Denver Sheriff Department – Discipline Matrix
Categories, Violations and Discipline Level Assignments Table
 Updated Effective February 1, 2024

Conduct Category A Misconduct that has a minimal negative impact on the operations or professional image of the Department.							
Rule No.	Rule	Penalty Level for Violations					
	<u>REPORTING TO WORK AND UNIFORMS (100.00 – 199.99)</u>						
RR-100.2	Unable to Appear for Duty - Notification (A-B)	1st Violation	2nd Violation	3rd Violation			
RR-100.3	Time Accounting (A)						
RR-100.4	Punctuality (A)						
RR-100.5	Ability to Perform Duty (A-F)						
RR-100.6	Authorized Uniform and Attire (A)						
RR-100.7	No Uniform Off Duty (A-B)						
RR-100.8	Conduct While Off Duty in Uniform (A-B)						
RR-100.10.1	Misuse and Abuse of Leave Time (A-F)						
RR-100.14	Refusal to work mandatory overtime (A-D)						
	<u>GENERAL CONDUCT, BEHAVIOR AND ACTIVITIES AT WORK (200.00 – 299.99)</u>						
RR-200.3.1	Complete Reporting (A-C)	3 Years	3 Years	3 Years			
RR-200.9	Full Attention to Duties (A-F)						
RR-200.16	Failure to Perform Duties (A-F)	-Level-	-Level-	-Level-			
RR-200.19	Performance of Duties (A-F)						
RR-200.22	Inappropriate Computer Use (A-F)						
RR-200.23	Giving Name and Badge Number (A-B)						
	<u>GENERAL WORK-RELATED CONDUCT OR BEHAVIOR (300.00 – 399.99)</u>						
RR-300.4	Reporting Change of Contact Information (A)	1	2	3			
RR-300.5.3	Giving Testimonials, Seeking Publicity (A-B)						
RR-300.11.1	Conduct Prohibited by Law (A-F)						
RR-300.11.3	Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)						
RR-300.11.6	Conduct Prejudicial (A-F)						
RR-300.15.2	Duty to Report Gift (A-C)						
RR-300.16	Unauthorized Use of Equipment (A-E)						
RR-300.18	Safeguarding Department Property (A-B)						
RR-300.19.1	Disobedience of Rule (A-F)						
RR-300.19.2	Aiding & Abetting Violation of Rules (A-F)						
RR-300.20	Requirement for Former Deputy Sheriffs and Employees to Obey Laws, Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)						
RR-300.21.2	Impartial Attitude (A-C)						
RR-300.26	Publication of Articles (A-B)						
	<u>CARE AND CUSTODY OF PRISONERS (400.00 – 499.99)</u>						
RR-400.1	Prohibited Discussions with Prisoners (A-C)						
RR-400.9	Handling of Mentally Ill Inmates (A-F)						
RR-400.10	Ensuring Care and Treatment of Ill or Injured Prisoners (A-F)						
RR-400.12	Prohibited Transactions with Prisoners (A-F)						
RR-400.18	Preventing Escapes & Passing of Contraband (A-F)						
RR-400.19	Prohibited Use of Tobacco Products (A)						
	<u>VEHICLE OPERATION AND CARE AND USE OF EQUIPMENT (500.00 – 599.99)</u>						
RR-500.1	Negligent Operation of Motor Vehicle or Equipment (A-F)						
RR-500.2	Negligent Handling of City or Department Property (A-F)						
RR-500.3	Reporting of Damage to City or Department Property (A-C)						
RR-500.4	Obedience to Traffic Laws (A-F)						
RR-500.5	Unauthorized Use of City Vehicles (A-E)						
RR-500.6	Care of City Vehicles (A)						
RR-500.7	Preventing Unauthorized Use of Department Property (A-F)						
RR-500.10	Ensuring Responsible Use of Department Property (A)						
RR-500.11	Unauthorized Transportation of Persons (A-E)						
RR-510.01	Vehicle Pursuit Policy (A-F)						
	<u>FIREARMS AND LESS LETHAL DEVICES (600.00 – 699.99)</u>						
RR-600.4	Reporting Defects in Firearms and Less Lethal Devices (A-F)						

Conduct Category A (Cont.)

	<u>ARRESTS AND SERVICES (700.00 – 799.99)</u>			
RR-700.5	Unauthorized Service of Process (A-B)			
	<u>COURTROOM DUTIES AND PROCEDURES (800.00 – 899.99)</u>			
RR-800.8	Referral of Questions of Law & Court Operations (A-B)			
RR-800.9	News Media Reporting (A-C)			
	<u>TRANSPORTATION OF PRISONERS (900.00 – 999.99)</u>			
RR-900.2	Ensuring Required Paperwork (A-B)	1 st Violation	2 nd Violation	3 rd Violation
RR-900.3	Ensuring Transportation of Prisoner Property (A-C)			
RR-900.8	Transport of Female Prisoners (A-C)			
RR-900.9	Monitoring of Radio (A-B)	3 Years	3 Years	3 Years
RR-900.11	Unnecessary Stops During Transport (A-D)			
	<u>EXTRADITION OF PRISONERS (1000.00 – 1099.99)</u>			
RR-1000.3	Authorized Expenses (A-C)	-Level-	-Level-	-Level-
RR-1000.4	Federal Regulations Regarding Firearms on Airplanes (A-F)			
	<u>SUPERVISORY AND ADMINISTRATIVE CONDUCT (1100.00 – 1199.99)</u>	1	2	3
RR-1100.1	Compliance with Policies & Rules (A-F)			
RR-1100.2	Temporary Assignment as Supervisor (A-F)			
RR-1100.4	Relationships with Other Employees (A-F)			
<ul style="list-style-type: none"> - Any prior sustained violation in a category greater than or equal to the current violation shall increase the penalty level by 1. The prior violation must be within the specified time frame of the current violation. - Any prior sustained violation within the specified time frame, in a category lower than the current violation, may be considered as an aggravated factor. 				
<p>* Violations that appear in multiple categories will require the Department to compare the underlying conduct to the definitions contained in each category in order to identify the appropriate category for the violation.</p>				
<p>** In addition to mandatory increases in the discipline level and other factors that can result in aggravated penalties, the 4th or subsequent sustained violation of the same R&R, within the specified time frame, may result in more severe disciplinary recommendations.</p>				



Denver Sheriff Department – Discipline Matrix
Categories, Violations and Discipline Level Assignments Table
 Updated Effective February 1, 2024

Conduct Category B							
Misconduct that: (i) has more than a minimal negative impact on the operations or professional image of the Department; or (ii) negatively impacts relationships with other deputy sheriffs, employees, agencies, detainees, or the public.							
Rule No.	Rule	Penalty Level for Violations					
	<u>REPORTING TO WORK AND UNIFORMS (100.00 – 199.99)</u>						
RR-100.1.1	Absent from Duty (B-D)	1 st	2 nd	3 rd			
RR-100.2	Unable to Appear for Duty - Notification (A-B)						
RR-100.5	Ability to Perform Duty (A-F)						
RR-100.7	No Uniform Off Duty (A-B)						
RR-100.8	Conduct While Off Duty in Uniform (A-B)						
RR-100.10.1	Misuse and Abuse of Leave Time (A-F)						
RR-100.12	Misuse or Alteration of Badge or ID Prohibited (B)						
RR-100.14	Refusal to work mandatory overtime (A-D)						
	<u>GENERAL CONDUCT, BEHAVIOR AND ACTIVITIES AT WORK (200.00 – 299.99)</u>						
RR-200.1	Reporting Injury (B-F)				Violation	Violation	Violation
RR-200.3.1	Complete Reporting (A-C)				4 Years	4 Years	4 Years
RR-200.4.4	Removal of Reports and Records (B-F)				–Level–	–Level–	–Level–
RR-200.6	Access to NCIC/CCIC (B-F)						
RR-200.8	Interviews of Inmates (B)						
RR-200.9	Full Attention to Duties (A-F)						
RR-200.10	Use of City Equipment (B-D)						
RR-200.12	Abandoning Post (B-F)						
RR-200.13.2	Duty to Report Unlawful Order (B-D)	2	3	4			
RR-200.15.1	Respect for Fellow Deputies, Employees, and Members of the Public (B-C)						
RR-200.16	Failure to Perform Duties (A-F)						
RR-200.18	On Duty Presence at Adult/Liquor/Marijuana Establishments (B-C)						
RR-200.19	Performance of Duties (A-F)						
RR-200.22	Inappropriate Computer Use (A-F)						
RR-200.23	Giving Name and Badge Number (A-B)						
RR-200.24	Discourtesy (B-C)						
	<u>GENERAL WORK-RELATED CONDUCT OR BEHAVIOR (300.00 – 399.99)</u>						
RR-300.1	Enforcing Criminal Statutes (B-E)						
RR-300.5.1	Political Activity (B)						
RR-300.5.2	Soliciting Money for Political Purposes (B)						
RR-300.5.3	Giving Testimonials, Seeking Publicity (A-B)						
RR-300.5.4	Soliciting Business (B)						
RR-300.11.1	Conduct Prohibited by Law (A-F)						
RR-300.11.3	Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)						
RR-300.11.6	Conduct Prejudicial (A-F)						
RR-300.15.2	Duty to Report Gift (A-C)						
RR-300.16	Unauthorized Use of Equipment (A-E)						
RR-300.18	Safeguarding Department Property (A-B)						
RR-300.19.1	Disobedience of Rule (A-F)						
RR-300.19.2	Aiding & Abetting Violation of Rules (A-F)						
RR-300.20	Requirement for Former Deputy Sheriffs and Employees to Obey Laws, Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)						
RR-300.21.2	Impartial Attitude (A-C)						
RR-300.24	Secondary Employment (B-C)						
RR-300.25	Use of Department Letterhead, Badges and Insignias (B)						
RR-300.26	Publication of Articles (A-B)						
RR-300.27	Collective Bargaining Fair Share Fee (B)						
	<u>CARE AND CUSTODY OF PRISONERS (400.00 – 499.99)</u>						
RR-400.1	Prohibited Discussions with Prisoners (A-C)						
RR-400.4.4	Erroneous Release (B-E)						
RR-400.9	Handling of Mentally Ill Inmates (A-F)						
RR-400.10	Ensuring Care and Treatment of Ill or Injured Prisoners (A-F)						
RR-400.12	Prohibited Transactions with Prisoners (A-F)						
RR-400.14.1	Suggesting Bondsmen or Attorneys (B)						

Conduct Category B (Cont.)

RR-400.17	Failure to Search (B-F)	1 st Violation	2 nd Violation	3 rd Violation			
RR-400.18	Preventing Escapes & Passing of Contraband (A-F)						
RR-400.20	Prohibited Access to Tobacco Products (B-D)						
	<u>VEHICLE OPERATION AND CARE AND USE OF EQUIPMENT (500.00 – 599.99)</u>						
RR-500.1	Negligent Operations of Motor Vehicle or Equipment (A-F)						
RR-500.2	Negligent Handling of City or Department Property (A-F)						
RR-500.3	Reporting of Damage to City or Department Property (A-C)						
RR-500.4	Obedience of Traffic Laws (A-F)						
RR-500.5	Unauthorized Use of City Vehicles (A-E)						
RR-500.7	Preventing Unauthorized Use of Department Property (A-F)						
RR-500.8	Use of Emergency Equipment (B-D)						
RR-500.11	Unauthorized Transportation of Persons (A-E)						
RR-510.01	Vehicle Pursuit Policy (A-F)						
	<u>FIREARMS AND LESS LETHAL DEVICES (600.00 – 699.99)</u>						
RR-600.4	Reporting Defects in Firearms and Less Lethal Devices (A-F)				2	3	4
RR-600.5	Secure Storage of Firearms (B-F)						
	<u>ARRESTS AND SERVICES (700.00 – 799.99)</u>						
RR-700.3	Compliance with Court Orders (B-F)						
RR-700.5	Unauthorized Service of Process (A-B)						
	<u>COURTROOM DUTIES AND PROCEDURES (800.00 – 899.99)</u>						
RR-800.5	Safeguarding and Transmitting Court Orders (B)						
RR-800.8	Referral of Questions of Law & Court Operations (A-B)						
RR-800.9	News Media Reporting (A-C)						
RR-800.10	Unauthorized Communication with Prisoners (B)						
RR-800.13	Attendance in Court (B-C)						
	<u>TRANSPORTATION OF PRISONERS (900.00 – 999.99)</u>						
RR-900.1	Properly Identifying Prisoners (B-C)						
RR-900.2	Ensuring Required Paperwork (A-B)						
RR-900.3	Ensuring Transportation of Prisoner Property (A-C)						
RR-900.4	Searching Prisoners (B-F)						
RR-900.5	Search of Transport Vehicle (B-F)						
RR-900.6	Ensuring Safety of Persons in Custody During Transport (B-F)						
RR-900.8	Transport of Female Prisoners (A-C)						
RR-900.9	Monitoring of Radio (A-B)						
RR-900.11	Unnecessary Stops During Transport (A-D)						
	<u>EXTRADITION OF PRISONERS (1000.00 – 1099.99)</u>						
RR-1000.3	Authorized Expenses (A-C)						
RR-1000.4	Federal Regulations Regarding Firearms on Airplanes (A-F)						
RR-1100.1	Compliance with Policies & Rules (A-F)						
RR-1100.2	Temporary Assignment as Supervisor (A-F)						
RR-1100.4	Relationships with Other Employees (A-F)						
RR-1100.8	Failure to Supervise (B-F)						
<ul style="list-style-type: none"> - Any prior sustained violation in a category greater than or equal to the current violation shall increase the penalty level by 1. The prior violation must be within the specified time frame of the current violation. - Any prior sustained violation within the specified time frame, in a category lower than the current violation, may be considered as an aggravated factor. 							
<p>* Violations that appear in multiple categories will require the Department to compare the underlying conduct to the definitions contained in each category in order to identify the appropriate category for the violation.</p>							
<p>** In addition to mandatory increases in the discipline level and other factors that can result in aggravated penalties, the 4th or subsequent sustained violation of the same R&R, within the specified time frame, may result in more severe disciplinary recommendations.</p>							



Denver Sheriff Department – Discipline Matrix
Categories, Violations and Discipline Level Assignments Table
 Updated Effective February 1, 2024

Conduct Category C				
Misconduct that has a pronounced negative impact on: (i) the operations or professional image of the Department; or (ii) relationships with other deputy sheriffs, employees, agencies, detainees, or the public.				
Rule No.	Rule	Penalty Level for Violations		
	<u>REPORTING TO WORK AND UNIFORMS (100.00 – 199.99)</u>			
RR-100.1.1	Absent from Duty (B-D)	1st	2nd	3rd
RR-100.5	Ability to Perform Duty (A-F)			
RR-100.10.1	Misuse and Abuse of Leave Time (A-F)			
RR-100.13	Use of Badge by Person other than a Deputy (C-E)			
RR-100.14	Refusal to work mandatory overtime (A-D)			
	<u>GENERAL CONDUCT, BEHAVIOR AND ACTIVITIES AT WORK (200.00 – 299.99)</u>			
RR-200.1	Reporting Injury (B-F)	3	4	5
RR-200.3.1	Complete Reporting (A-C)			
RR-200.4.4	Removal of Reports and Records (B-F)			
RR-200.6	Access to NCIC/CCIC (B-F)			
RR-200.9	Full Attention to Duties (A-F)			
RR-200.10	Use of City Equipment (B-D)			
RR-200.12	Abandoning Post (B-F)			
RR-200.13.1	Disobeying Lawful Order (C-F)			
RR-200.13.2	Duty to Report Unlawful Order (B-D)			
RR-200.15.1	Respect for Fellow Deputies, Employees, and Members of the Public (B-C)			
RR-200.16	Failure to Perform Duties (A-F)			
RR-200.18	On Duty Presence at Adult/Liquor/Marijuana Establishments (B-C)			
RR-200.19	Performance of Duties (A-F)			
RR-200.22	Inappropriate Computer Use (A-F)			
RR-200.24	Discourtesy (B-C)			
	<u>GENERAL WORK-RELATED CONDUCT OR BEHAVIOR (300.00 – 399.99)</u>			
RR-300.1	Enforcing Criminal Statutes (B-E)			
RR-300.2	Soliciting Preferential Treatment (C-F)			
RR-300.7.2	Drinking to Excess (C)			
RR-300.11.1	Conduct Prohibited by Law (A-F)			
RR-300.11.3	Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)			
RR-300.11.4	Self-Reporting Criminal Arrest or Charges (C-D)			
RR-300.11.5	Self-Reporting License Suspension or Revocation (C)			
RR-300.11.6	Conduct Prejudicial (A-F)			
RR-300.15.1	Accepting Presents or Gratuities (C)			
RR-300.15.2	Duty to Report Gift (A-C)			
RR-300.16	Unauthorized Use of Equipment (A-E)			
RR-300.17.3	Reporting of Prohibited Associations (C-D)			
RR-300.19.1	Disobedience of Rule (A-F)			
RR-300.19.2	Aiding & Abetting Violation of Rules (A-F)			
RR-300.20	Requirement for Former Deputy Sheriffs and Employees to Obey Laws, Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)			
RR-300.21.1	Discrimination, Harassment and Retaliation (C-F)			
RR-300.21.2	Impartial Attitude (A-C)			
RR-300.24	Secondary Employment (B-C)			
	<u>CARE AND CUSTODY OF PRISONERS (400.00 – 499.99)</u>			
RR-400.1	Prohibited Discussions with Prisoners (A-C)			
RR-400.4.3	Wrong Person Detention Allegations (C)			
RR-400.4.4	Erroneous Release (B-E)			
RR-400.8.3	Failure to Document Rounds (C)			
RR-400.9	Handling of Mentally Ill Inmates (A-F)			
RR-400.10	Ensuring Care and Treatment of Ill or Injured Prisoners (A-F)			
RR-400.12	Prohibited Transactions with Prisoners (A-F)			
RR-400.14.4	Reporting Associations with Attorneys or Bondsmen (C)			
RR-400.15	Securing Bond for Arrested Person (C)			
RR-400.17	Failure to Search (B-F)			
RR-400.18	Preventing Escapes & Passing of Contraband (A-F)			

Conduct Category C (Cont.)

		1 st	2 nd	3 rd
RR-400.20	Prohibited Access to Tobacco Products (B-D)			
	<u>VEHICLE OPERATION AND CARE AND USE OF EQUIPMENT (500.00 – 599.99)</u>			
RR-500.1	Negligent Operation of Motor Vehicle or Equipment (A-F)	Violation	Violation	Violation
RR-500.2	Negligent Handling of City or Department Property (A-F)			
RR-500.3	Reporting of Damage to City or Department Property (A-C)			
RR-500.4	Obedience to Traffic Laws (A-F)			
RR-500.5	Unauthorized Use of City Vehicles (A-E)			
RR-500.7	Preventing Unauthorized Use of Department Property (A-F)	5 years	5 years	5 Years
RR-500.8	Use of Emergency Equipment (B-D)			
RR-500.11	Unauthorized Transportation of Persons (A-E)	–Level–	–Level–	–Level–
RR-510.01	Vehicle Pursuit Policy (A-F)			
	<u>FIREARMS AND LESS LETHAL DEVICES (600.00 – 699.99)</u>	3	4	5
RR-600.1	Carrying of Firearms (C)			
RR-600.2	Authorized Weapons & Ammunition (C-F)			
RR-600.3	Storage of Firearms and Less Lethal Devices (C-F)			
RR-600.4	Reporting Defects in Firearms and Less Lethal Devices (A-F)			
RR-600.5	Secure Storage of Firearms (B-F)			
RR-600.6	Prohibited Display of Firearms and Less Lethal Devices (C-F)			
RR-600.7	Unauthorized Access to Departmental Firearms, Less Lethal Devices, & Ammunition (C-F)			
RR-600.8	Discharge of Firearms or Less Lethal Devices (C-F)			
RR-600.9	Careless Handling of Firearms and Less Lethal Devices (C-F)			
RR-600.10	Restrictions on Non-Departmentally Approved Firearms or Less Lethal Devices (C)			
	<u>ARRESTS AND SERVICES (700.00 – 799.99)</u>			
RR-700.1	Lawful Arrests (C-F)			
RR-700.3	Compliance with Court Orders (B-F)			
RR-700.4	Ensuring Valid Arrest Warrant (C-E)			
RR-700.7	Notification of Defense Subpoena (C)			
	<u>COURTROOM DUTIES AND PROCEDURES (800.00 – 899.99)</u>			
RR-800.1	Obedying Orders of the Court (C-D)			
RR-800.2	Conduct in Court (C)			
RR-800.9	News Media Reporting (A-C)			
RR-800.11	Unauthorized Visits with Prisoners (C)			
RR-800.13	Attendance in Court (B-C)			
	<u>TRANSPORTATION OF PRISONERS (900.00 – 999.99)</u>			
RR-900.1	Properly Identifying Prisoners (B-C)			
RR-900.3	Ensuring Transportation of Prisoner Property (A-C)			
RR-900.4	Searching Prisoners (B-F)			
RR-900.5	Search of Transport Vehicle (B-F)			
RR-900.6	Ensuring Safety of Persons in Custody During Transport (B-F)			
RR-900.8	Transport of Female Prisoners (A-C)			
RR-900.11	Unnecessary Stops During Transport (A-D)			
	<u>EXTRADITION OF PRISONERS (1000.00 – 1099.99)</u>			
RR-1000.1	Timely Extradition (C)			
RR-1000.3	Authorized Expenses (A-C)			
RR-1000.4	Federal Regulations Regarding Firearms on Airplanes (A-F)			
	<u>SUPERVISORY AND ADMINISTRATIVE CONDUCT (1100.00 – 1199.99)</u>			
RR-1100.1	Compliance with Policies & Rules (A-F)			
RR-1100.2	Temporary Assignment as Supervisor (A-F)			
RR-1100.3.3	Influencing Union Affiliation (C)			
RR-1100.4	Relationships with Other Employees (A-F)			
RR-1100.5	Soliciting Personal Services (C-F)			
RR-1100.6	Special Treatment of Employees (C-F)			
RR-1100.7	Disclosure of Business or Intimate Personal Relationships (C)			
RR-1100.8	Failure to Supervise (B-F)			
<ul style="list-style-type: none"> – Any prior sustained violation in a category greater than or equal to the current violation shall increase the penalty level by 1. The prior violation must be within the specified time frame of the current violation. – Any prior sustained violation within the specified time frame, in a category lower than the current violation, may be considered as an aggravated factor. 				
<p>* Violations that appear in multiple categories will require the Department to compare the underlying conduct to the definitions contained in each category in order to identify the appropriate category for the violation.</p>				
<p>** In addition to mandatory increases in the discipline level and other factors that can result in aggravated penalties, the 4th or subsequent sustained violation of the same R&R, within the specified time frame, may result in more severe disciplinary recommendations.</p>				



Denver Sheriff Department – Discipline Matrix
Categories, Violations and Discipline Level Assignments Table
 Updated Effective February 1, 2024

Conduct Category D				
Misconduct that: (i) is contrary to the guiding principles of the Department or interferes with its mission to provide care and custody to inmates in accordance with those guiding principles; (ii) substantially interferes with the Department's operations or professional image; (iii) involves a demonstrable risk to the safety of a deputy sheriff, an employee, a detainee, or the public.				
Rule No.	Rule	Penalty Level for Violations		
	<u>REPORTING TO WORK AND UNIFORMS (100.00 – 199.99)</u>			
RR-100.1.1	Absent from Duty (B-D)			
RR-100.5	Ability to Perform Duty (A-F)			
RR-100.10.1	Misuse and Abuse of Leave Time (A-F)			
RR-100.13	Use of Badge by Person other than a Deputy (C-E)			
RR-100.14	Refusal to work mandatory overtime (A-D)			
	<u>GENERAL CONDUCT, BEHAVIOR AND ACTIVITIES AT WORK (200.00 – 299.99)</u>			
RR-200.1	Reporting Injury (B-F)			
RR-200.2	Reporting of Use, or Attempted Use, of Force on a Person (D-F)	Violation	Violation	Violation
RR-200.2.1	Reporting of Use, or Attempted Use, of Force on an Animal (D-F)			
RR-200.4.1	Knowingly Making Misleading or Inaccurate Statements (D-F)	7 Years	7 Years	7 Years
RR-200.4.4	Removal of Reports and Records (B-F)			
RR-200.6	Access to NCIC/CCIC (B-F)	–Level–	–Level–	–Level–
RR-200.7.1	Release of Confidential Information (D-E)			
RR-200.9	Full Attention to Duties (A-F)			
RR-200.10	Use of City Equipment (B-D)			
RR-200.11	Sleeping on Duty (D-F)			
RR-200.12	Abandoning Post (B-F)			
RR-200.13.1	Disobeying Lawful Order (C-F)	5	6	7
RR-200.13.2	Duty to Report Unlawful Order (B-D)			
RR-200.15.2	Abuse of Fellow Deputies, Employees, and Members of the Public (D-F)			
RR-200.16	Failure to Perform Duties (A-F)			
RR-200.17.1	Failure to Aid and Protect Fellow Deputies – Unreasonable (D)			
RR-200.19	Performance of Duties (A-F)			
RR-200.21	Interfering with Grievance Process (D-F)			
RR-200.22	Inappropriate Computer Use (A-F)			
	<u>GENERAL WORK-RELATED CONDUCT OR BEHAVIOR (300.00 – 399.99)</u>			
RR-300.1	Enforcing Criminal Statutes (B-E)			
RR-300.2	Soliciting Preferential Treatment (C-F)			
RR-300.6	Feigning Illness (D-E)			
RR-300.7.1	Unfit for Duty (D)			
RR-300.10.1	Immoral Conduct (D-F)			
RR-300.11.1	Conduct Prohibited by Law (A-F)			
RR-300.11.3	Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)			
RR-300.11.4	Self-Reporting Criminal Arrest or Charges (C-D)			
RR-300.11.6	Conduct Prejudicial (A-F)			
RR-300.16	Unauthorized Use of Equipment (A-E)			
RR-300.17.2	Prohibited Associations (D-F)			
RR-300.17.3	Reporting of Prohibited Associations (C-D)			
RR-300.19.1	Disobedience of Rule (A-F)			
RR-300.19.2	Aiding & Abetting Violation of Rules (A-F)			
RR-300.20	Requirement for Former Deputy Sheriffs and Employees to Obey Laws, Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)			
RR-300.21.1	Discrimination, Harassment, and Retaliation (C-F)			
RR-300.21.3	Impartial Attitude – Bias (D-F)			
RR-300.22	Inappropriate Force on a Person (D-F)			
RR-300.22.1	Inappropriate Attempted Force on a Person or Animal (D or F)			
RR-300.22.2	Inappropriate Force on an Animal (D or F)			
RR-300.22.3	Failure to Intervene in an Inappropriate Use, or Attempted Use, of Force (D-F)			

Conduct Category D (Cont.)

		1 st	2 nd	3 rd
<u>CARE AND CUSTODY OF PRISONERS (400.00 – 499.99)</u>				
RR-400.2.2	Extending Favors (D-F)			
RR-400.4.1.1	Failure to Report Humiliating, Cruel, or Harassing Treatment of Prisoners (D-F)			
RR-400.4.4	Erroneous Release (B-E)			
RR-400.5	Harassment of Prisoners (D-F)			
RR-400.8.1	Failure to Protect Prisoners from Harming Themselves or other Prisoners (D-F)			
RR-400.8.2	Failure to Make Required Rounds (D-F)			
RR-400.8.5	Ensuring Lighting in Housing Units (D-F)			
RR-400.9	Handling of Mentally Ill Inmates (A-F)	1 st	2 nd	3 rd
RR-400.10	Ensuring Care and Treatment of Ill or Injured Prisoners (A-F)	Violation	Violation	Violation
RR-400.12	Prohibited Transactions with Prisoners (A-F)			
RR-400.13	Prohibited Bartering with Prisoners (D-F)	7 Years	7 Years	7 Years
RR-400.17	Failure to Search (B-F)			
RR-400.18	Preventing Escapes & Passing of Contraband (A-F)	-Level-	-Level-	-Level-
RR-400.20	Prohibited Access to Tobacco Products (B-D)			
<u>VEHICLE OPERATION AND CARE AND USE OF EQUIPMENT (500.00 – 599.99)</u>		5	6	7
RR-500.1	Negligent Operation of Motor Vehicle or Equipment (A-F)			
RR-500.2	Negligent Handling of City or Department Property (A-F)			
RR-500.4	Obedience to Traffic Laws (A-F)			
RR-500.5	Unauthorized Use of City Vehicles (A-E)			
RR-500.7	Preventing Unauthorized Use of Department Property (A-F)			
RR-500.8	Use of Emergency Equipment (B-D)			
RR-500.11	Unauthorized Transportation of Persons (A-E)			
RR-510.01	Vehicle Pursuit Policy (A-F)			
<u>FIREARMS AND LESS LETHAL DEVICES (600.00 – 699.99)</u>				
RR-600.2	Authorized Weapons & Ammunition (C-F)			
RR-600.3	Storage of Firearms and Less Lethal Devices (C-F)			
RR-600.4	Reporting Defects in Firearms and Less Lethal Devices (A-F)			
RR-600.5	Secure Storage of Firearms (B-F)			
RR-600.6	Prohibited Display of Firearms and Less Lethal Devices (C-F)			
RR-600.7	Unauthorized Access to Departmental Firearms, Less Lethal Devices, & Ammunition (C-F)			
RR-600.8	Discharge of Firearms or Less Lethal Devices (C-F)			
RR-600.9	Careless Handling of Firearms and Less Lethal Devices (C-F)			
<u>ARRESTS AND SERVICES (700.00 – 799.99)</u>				
RR-700.1	Lawful Arrests (C-F)			
RR-700.3	Compliance with Court Orders (B-F)			
RR-700.4	Ensuring Valid Arrest Warrant (C-E)			
<u>COURTROOM DUTIES AND PROCEDURES (800.00 – 899.99)</u>				
RR-800.1	Obedying Orders of the Court (C-D)			
RR-800.3	Taking Custody as Directed by the Court (D-E)			
RR-800.7	Unauthorized Delegation of Custody (D-F)			
<u>TRANSPORTATION OF PRISONERS (900.00 – 999.99)</u>				
RR-900.4	Searching Prisoners (B-F)			
RR-900.5	Search of Transport Vehicle (B-F)			
RR-900.6	Ensuring Safety of Persons in Custody During Transport (B-F)			
RR-900.7	Proper Restraint of Prisoners (D-F)			
RR-900.11	Unnecessary Stops During Transport (A-D)			
<u>EXTRADITION OF PRISONERS (1000.00 – 1099.99)</u>				
RR-1000.4	Federal Regulations Regarding Firearms on Airplanes (A-F)			
<u>SUPERVISORY AND ADMINISTRATIVE CONDUCT (1100.00 – 1199.99)</u>				
RR-1100.1	Compliance with Policies & Rules (A-F)			
RR-1100.2	Temporary Assignment as Supervisor (A-F)			
RR-1100.3.1	Discrimination Against Member of Protected Class (D-F)			
RR-1100.3.2	Discrimination Based on Union Affiliation (D-F)			
RR-1100.4	Relationships with Other Employees (A-F)			
RR-1100.5	Soliciting Personal Services (C-F)			
RR-1100.6	Special Treatment of Employees (C-F)			
RR-1100.8	Failure to Supervise (B-F)			
<ul style="list-style-type: none"> - Any prior sustained violation in a category greater than or equal to the current violation shall increase the penalty level by 1. The prior violation must be within the specified time frame of the current violation. - Any prior sustained violation within the specified time frame, in a category lower than the current violation, may be considered as an aggravated factor. 				
* Violations that appear in multiple categories will require the Department to compare the underlying conduct to the definitions contained in each category in order to identify the appropriate category for the violation.				
** In addition to mandatory increases in the discipline level and other factors that can result in aggravated penalties, the 4 th or subsequent sustained violation of the same R&R, within the specified time frame, may result in more severe disciplinary recommendations.				



Denver Sheriff Department – Discipline Matrix
Categories, Violations and Discipline Level Assignments Table
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Conduct Category E				
Misconduct that: (i) foreseeably results in bodily injury or otherwise results in an actual adverse impact on the safety of a deputy sheriff, an employee, a detainee, or the public; (ii) involves unethical behavior or a serious misuse of authority.				
Rule No.	Rule	Penalty Level for Violations		
	<u>REPORTING TO WORK AND UNIFORMS (100.00 – 199.99)</u>			
RR-100.5	Ability to Perform Duties (A-F)			
RR-100.10.1	Misuse and Abuse of Leave Time (A-F)			
RR-100.13	Use of Badge by Person other than a Deputy (C-E)			
	<u>GENERAL CONDUCT, BEHAVIOR AND ACTIVITIES AT WORK (200.00 – 299.99)</u>			
RR-200.1	Reporting Injury (B-F)	1st	2nd	3rd
RR-200.2	Reporting of Use, or Attempted Use, of Force on a Person (D-F)			
RR-200.2.1	Reporting of Use, or Attempted Use, of Force on an Animal (D-F)			
RR-200.4.1	Knowingly Making Misleading or Inaccurate Statements (D-F)	Violation	Violation	Violation
RR-200.4.4	Removal of Reports and Records (B-F)			
RR-200.5	Access to Records (E-F)	No Time Limit	No Time Limit	No Time Limit
RR-200.6	Access to NCIC/CCIC (B-F)			
RR-200.7.1	Release of Confidential Information (D-E)			
RR-200.7.2	Use of Confidential Information (E-F)	–Level–	–Level–	–Level–
RR-200.9	Full Attention to Duties (A-F)			
RR-200.11	Sleeping on Duty (D-F)			
RR-200.12	Abandoning Post (B-F)			
RR-200.13.1	Disobeying Lawful Order (C-F)			
RR-200.15.2	Abuse of Fellow Deputies, Employees, and Members of the Public (D-F)			
RR-200.16	Failure to Perform Duties (A-F)	6	7	8
RR-200.19	Performance of Duties (A-F)			
RR-200.21	Interfering with Grievance Process (D-F)			
RR-200.22	Inappropriate Computer Use (A-F)			
	<u>GENERAL WORK-RELATED CONDUCT OR BEHAVIOR (300.00 – 399.99)</u>			
RR-300.1	Enforcing Criminal Statutes (B-E)			
RR-300.2	Soliciting Preferential Treatment (C-F)			
RR-300.6	Feigning Illness (D-E)			
RR-300.8	Drinking on Duty (E-F)			
RR-300.10.1	Immoral Conduct (D-F)			
RR-300.11.1	Conduct Prohibited by Law (A-F)			
RR-300.11.3	Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)			
RR-300.11.6	Conduct Prejudicial (A-F)			
RR-300.16	Unauthorized Use of Equipment (A-E)			
RR-300.17.2	Prohibited Associations (D-F)			
RR-300.17.4	Prohibited Utilization of Prisoners (E-F)			
RR-300.19.1	Disobedience of Rule (A-F)			
RR-300.19.2	Aiding & Abetting Violation of Rules (A-F)			
RR-300.20	Requirement for Former Deputy Sheriffs and Employees to Obey Laws, Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)			
RR-300.21.1	Discrimination, Harassment, and Retaliation (C-F)			
RR-300-21.3	Impartial Attitude – Bias (D-F)			
RR-300.22	Inappropriate Force on a Person (D-F)			
RR-300.22.3	Failure to Intervene in an Inappropriate Use, or Attempted Use, of Force (D-F)			
RR-300.23	Intimidation of Persons (E)			
RR-300.28	Use of City Credit Cards and Reimbursement Requests (E-F)			
	<u>CARE AND CUSTODY OF PRISONERS (400.00 – 499.99)</u>			
RR-400.2.2	Extending Favors (D-F)			
RR-400.4.1	Humiliating, Cruel, or Harassing Treatment of Prisoners (E-F)			

Conduct Category E (Cont.)

RR-400.4.1.1	Failure to Report Humiliating, Cruel, or Harassing Treatment of Prisoners (D-F)	1 st Violation	2 nd Violation	3 rd Violation			
RR-400.4.4	Erroneous Release (B-E)						
RR-400.5	Harassment of Prisoners (D-F)						
RR-400.8.1	Failure to Protect Prisoners from Harming Themselves or other Prisoners (D-F)						
RR-400.8.1.1	Failure to Protect Prisoners from Harm by any DSD Employee (E-F)						
RR-400.8.2	Failure to Make Required Rounds (D-F)						
RR-400.8.5	Ensuring Lighting in Housing Units (D-F)						
RR-400.9	Handling of Mentally Ill Inmates (A-F)						
RR-400.10	Ensuring Care and Treatment of Ill or Injured Prisoners (A-F)						
RR-400.12	Prohibited Transactions with Prisoners (A-F)						
RR-400.13	Prohibited Bartering with Prisoners (D-F)						
RR-400.14.2	Suggesting Bondsmen or Attorneys for Profit (E)				No Time Limit	No Time Limit	No Time Limit
RR-400.14.3	Working with Attorneys or Bonds Persons Prohibited (E)						
RR-400.17	Failure to Search (B-F)						
RR-400.18	Preventing Escapes & Passing of Contraband (A-F)				-Level-	-Level-	-Level-
<u>VEHICLE OPERATION AND CARE AND USE OF EQUIPMENT (500.00 – 599.99)</u>					6	7	8
RR-500.1	Negligent Operation of Motor Vehicle or Equipment (A-F)						
RR-500.2	Negligent Handling of City or Department Property (A-F)						
RR-500.4	Obedience to Traffic Laws (A-F)						
RR-500.5	Unauthorized Use of City Vehicles (A-E)						
RR-500.7	Preventing Unauthorized Use of Department Property (A-F)						
RR-500.9	Use of City Gasoline Cards (E-F)						
RR-500.11	Unauthorized Transportation of Persons (A-E)						
RR-510.01	Vehicle Pursuit Policy (A-F)						
<u>FIREARMS AND LESS LETHAL DEVICES (600.00 – 699.99)</u>							
RR-600.2	Authorized Weapons & Ammunition (C-F)						
RR-600.3	Storage of Firearms and Less Lethal Devices (C-F)						
RR-600.4	Reporting Defects in Firearms and Less Lethal Devices (A-F)						
RR-600.5	Secure Storage of Firearms (B-F)						
RR-600.6	Prohibited Display of Firearms and Less Lethal Devices (C-F)						
RR-600.7	Unauthorized Access to Departmental Firearms, Less Lethal Devices, & Ammunition (C-F)						
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RR-700.3	Compliance with Court Orders (B-F)						
RR-700.4	Ensuring Valid Arrest Warrant (C-E)						
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RR-1100.4	Relationships with Other Employees (A-F)						
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RR-1100.6	Special Treatment of Employees (C-F)						
RR-1100.8	Failure to Supervise (B-F)						
<p>– Any prior sustained violation in a category greater than or equal to the current violation shall increase the penalty level by 1. The prior violation must be within the specified time frame of the current violation.</p> <p>– Any prior sustained violation within the specified time frame, in a category lower than the current violation, may be considered as an aggravated factor.</p> <p>* Violations that appear in multiple categories will require the Department to compare the underlying conduct to the definitions contained in each category in order to identify the appropriate category for the violation.</p> <p>** In addition to mandatory increases in the discipline level and other factors that can result in aggravated penalties, the 4th or subsequent sustained violation of the same R&R, within the specified time frame, may result in more severe disciplinary recommendations.</p>							



Denver Sheriff Department – Discipline Matrix
Categories, Violations and Discipline Level Assignments Table
 Updated Effective February 1, 2024

Conduct Category F		
Misconduct that: (i) foreseeably results in death or serious bodily injury; (ii) constitutes a willful and wanton disregard of Department guiding principles; (iii) involves any act so serious as to demonstrate a lack of the integrity, ethics, character, or fitness to hold the position of Denver deputy sheriff; (iv) involves any serious or abusive conduct contrary to the standards of conduct reasonably expected of one whose sworn duties are to uphold the law and to provide for the care and custody of detainees; or (v) involves any conduct that constitutes the failure to adhere to any conditions required by law, contract, or policy for employment as a Denver deputy sheriff.		
Rule No.	Rule	Penalty Level for Violations
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RR-100.10.1	Misuse and Abuse of Leave Time (A-F)	
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RR-200.4.2	Commission of a Deceptive Act (F)	
RR-200.4.3	Altering Information on Official Documents (F)	
RR-200.4.4	Removal of Reports and Records (B-F)	
RR-200.4.5	Destruction or Misuse of Reports or Records (F)	
RR-200.4.6	Interference with Prosecution (F)	
RR-200.4.7	Interfering with Investigation/Questioning (F)	
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RR-200.15.2	Abuse of Fellow Deputies, Employees, and Members of the Public (D-F)	
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RR-300.10.2	Sexual Misconduct (F)	
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RR-300.11.2	Aggravated Conduct Prohibited by Law (F)	

Conduct Category F (Cont.)

RR-300.11.3	Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)	<p style="text-align: center;">1st Violation</p> <p style="text-align: center;">No Time Limit</p> <p style="text-align: center;">–Level–</p> <p style="text-align: center;">8</p>
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**Denver Sheriff Department – Discipline Matrix
 Categories, Violations and Discipline Level Assignments Table
 Updated Effective February 1, 2024**

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RR-1100.8	Failure to Supervise (B-F)	
<p align="center">– Violations that appear in multiple categories will require the Department to compare the underlying conduct to the definitions contained in each category in order to identify the appropriate category for the violation.</p>		
<p align="center">** The 4th or subsequent sustained violation of the same R&R, within the specified time frame, may result in more severe disciplinary recommendations.</p>		



Denver Sheriff Department
Appendix E – Penalty Table & Discipline Matrix
 Updated Effective February 1, 2024

Penalty Table

Discipline Level	Mitigated Penalty	Presumptive Penalty	Aggravated Penalty
1		Notice of Improvement	Written Reprimand
2	Written Reprimand	Written Reprimand	1 - 2 Days Suspension ⁶
3	Written Reprimand to 1 Day Suspension	2 Days Suspension	3 - 4 Days Suspension
4	1 - 2 Days Suspension	3 Days Suspension	5 - 7 Days Suspension
5	4 - 6 Days Suspension	10 Days Suspension	14 - 16 Days Suspension
6	18 - 22 Days Suspension	30 Days Suspension	38 - 42 Days Suspension
7	43 - 47 Days Suspension	60 Days Suspension	Dismissal
8	90 Days Suspension	Dismissal	

⁶ Suspended days are counted as a loss of 8 hours. Deputies who work shifts other than 8 hours will still have any suspension measured with 1 day being equal to 8 hours.



SHERIFF DEPARTMENT OF THE
CITY AND COUNTY OF DENVER
DENVER, COLORADO

RULES AND REGULATIONS

DISCIPLINE HANDBOOK EDITION

APPENDIX F

UPDATED FEBRUARY 1, 2024

Approved by the
CITY ATTORNEY'S OFFICE
EXECUTIVE DIRECTOR OF SAFETY
SHERIFF

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DENVER SHERIFF DEPARTMENT RULES AND REGULATIONS

PREAMBLE

Deputies shall obey all Departmental rules, regulations, duties, procedures, instructions, and orders; the provisions of the Operations Manual; Mayor's Executive Orders; and Rules of the Career Service Authority. Failure to comply with any of these shall be construed as a violation. Members in violation shall be subject to disciplinary action. The following provisions of conduct shall be construed as a rule violation of the Operations Manual and Directives and Orders of the Denver Sheriff Department, but not by way of limitation.

REPORTING TO WORK AND UNIFORMS (100.00 – 199.99)

100.1.1 Absent from Duty (B-D)⁷

Deputy sheriffs and employees shall not be absent from duty without authorization.

100.1.2 [Deleted]

100.2 Unable to Appear for Duty – Notification (A-B)

Deputy sheriffs and employees unable to appear for duty because of illness or injury or for any other valid reasons shall call their supervisor or duty supervisor in their division or unit at least two hours prior to their scheduled reporting time. If the office or work unit is closed, the employee should call as soon as the office opens. In the case of an emergency, notification shall be made as soon as possible or practical.

Deputy sheriffs and employees, after individual and specific notification, shall abide by any special orders and procedures required of them relating to calling in sick, providing doctor's excuses, reporting their movements while on sick leave, or periodic checks by authorized personnel.

100.3 Time Accounting (A)

Deputy sheriffs and employees shall be individually responsible for reviewing and ensuring the accuracy of the individual's time accounting. Employees are responsible for notifying their supervisor of any problem in complying with the above. Deputy sheriffs and employees shall be responsible to ensure the accuracy of their time accounting at the end of the pay cycle.

100.4 Punctuality (A)

Deputy sheriffs and employees shall be on their assigned post and performing their assigned duties, including attendance in court as required, at their scheduled times.

100.5 Ability to Perform Duty (A-F)

Deputy sheriffs and employees will not report for duty when they are aware of any physical or mental condition that would limit or interfere with the deputy's or employee's ability to perform his or her duties and will notify a supervisor accordingly. Deputy sheriffs and employees shall not consume any substance while off duty to an extent that renders them unfit to report to his or her scheduled shift.

100.6 Authorized Uniform and Attire (A)

Deputy sheriffs and employees reporting for work shall be in the Department's authorized uniform or in other authorized attire and shall meet established general standards for neatness, cleanliness, and personal grooming as stated in the Department's "Uniform Policy".

⁷ The letters in parenthesis following each rule title refer to the conduct category(ies) applied to the rule violation.

100.7 No Uniform Off Duty (A-B)

Uniforms shall not be worn by employees while not on official duty, except in going to and from work or when engaged in authorized secondary employment or authorized volunteer work. Wearing of the uniform on all other occasions shall require special permission of the Sheriff, division chief, or their designee.

100.8 Conduct While Off Duty in Uniform (A-B)

Officers, while off duty and in uniform, shall conduct themselves in a professional manner and in compliance with all Sheriff Department and CSA rules, duties, policies, procedures, orders, directives, instructions, Operations Manual, or Mayor's Executive Orders.

100.9 [Not Used]

100.10.1 Misuse and Abuse of Leave Time (A-F)

Deputy sheriffs and employees shall adhere to Career Service or Department rules and policies governing employee use of leave.

100.10.2 [Deleted]

100.11 Uniform Restrictions for Deputies Under Suspension (F)

Deputy sheriffs and employees shall not wear the Department uniform or exercise any power or authority granted to them as a deputy sheriff or employee while under suspension or after having been placed on investigatory leave.

100.12 Misuse or Alteration of Badge or ID Prohibited (B)

Deputy sheriffs and employees shall not alter, exchange, or transfer any Department badge or identification. Deputy sheriffs and employees shall not use another deputy's or employee's badge or Department identification.

100.13 Use of Badge by Person other than a Deputy (C-E)

Deputy sheriffs and employees shall not permit any person not appointed a member of the Department to use an official badge or credential at any time.

100.14 Refusal to work mandatory overtime (A-D)

No deputy shall refuse to work mandatory overtime when ordered by any higher ranking sworn employee.

GENERAL CONDUCT, BEHAVIOR, AND ACTIVITIES AT WORK (200.00 – 299.99)

200.1 Reporting Injury (B-F)

Deputy sheriffs or employees who injure a person or damage public or private property while on duty or performing official acts or who witness the above shall immediately report the circumstances to their supervisor and complete all reports required.

200.2 Reporting of Use of Force on a Person (C-F)

Deputy sheriffs and employees who:

- (i) use force on a person;
- (ii) witness a use of force on a person; or
- (iii) were present for a use of force on a person but who state they did not observe that use of force;

shall immediately, or as quickly as possible under the circumstances, report that use to an on-duty

supervisor and shall comply with the DSD Use of Force Policy's requirements relating to the duty to report a use of force by the end of shift.

200.2.1 Reporting of Use of Force on an Animal (C-F)

Deputy sheriffs and employees who use force on an animal, witness a use of force on an animal, or were present for a use of force on an animal but who state they did not observe that use of force shall immediately report that use of force to an on-duty supervisor and shall comply with the DSD Use of Force Policy's requirements relating to the duty to report a use by the end of shift.

200.3 [Deleted]

200.3.1 Complete Reporting (A-C)

Deputy sheriffs and employees shall submit a complete, detailed, written or oral report where one is required or when ordered to do so. Reports will be completed before the end of shift.

200.4.1 Knowingly Making Misleading or Inaccurate Statements (D-F)

Deputy sheriffs and employees shall not knowingly make a misleading or inaccurate written or oral statement relating to their official duties.

200.4.2 Commission of a Deceptive Act (F)

In connection with any investigation or any judicial or administrative proceeding, deputy sheriffs and employees shall not knowingly commit a materially deceptive act including, but not limited to, departing from the truth verbally, making a false report, or intentionally omitting information.

200.4.3 Altering Information on Official Documents (F)

Deputy sheriffs and employees shall not intentionally change, alter, or otherwise distort the information on any official document without authorization.

200.4.4 Removal of Reports and Records (B-F)

Deputy sheriffs and employees shall not, without proper authority, remove Department reports or records from any division or bureau.

200.4.5 Destruction or Misuse of Reports or Records (F)

Deputy sheriffs and employees shall not intentionally destroy, permanently remove, or copy any Departmental report or record without authorization.

200.4.6 Interference with Prosecution (F)

Deputy sheriffs and employees shall not intervene with the courts or use their official positions to influence the prosecution or sentencing of any person, except as required in the performance of their duties.

200.4.7 Interfering with Investigation/Questioning (F)

Deputy sheriffs and employees shall not engage in conduct or have direct or indirect contact with any witness, complainant, or investigator, which conduct or contact is intended to obstruct, compromise, or interfere with an internal or criminal investigation. Internal Investigations shall include those initiated by the Internal Affairs Bureau of the Denver Police, Administrative Investigations Unit, Sheriff, Executive Director of Safety, or Executive Director of Safety's EEO Coordinator, or Office of the Independent Monitor.

200.4.8 Failure to Provide a Statement (F)

Once ordered to do so and after a *Garrity* Advisement, deputy sheriffs and employees shall provide a complete and truthful statement to any authorized member of the AIU, Executive Director of Safety's EEO Coordinator, Denver Police Department, or anyone else to whom the Executive Director of Safety has delegated the authority to compel statements.

200.5 Access to Records (E-F)

Deputy sheriffs and employees shall not knowingly allow inmates, other deputy sheriffs, other employees, or the public unauthorized access to records or other restricted materials.

200.6 Access to NCIC / CCIC (B-F)

Deputy sheriffs and employees shall not access and/or disclose National Crime Information Center (NCIC)/Colorado Crime Information Center (CCIC) information, records, reports etc., for personal use and/or gain or for any other unauthorized purpose.

200.7.1 Release of Confidential Information (D-E)

Deputy sheriffs and employees shall not release official or confidential information to the public, members of the press, other news gathering agencies, or others except as authorized by Department Order or written procedure or at the direction of the Executive Director of Safety, Sheriff, division chief, major, public information officer (PIO), or their designees.

200.7.2 Use of Confidential Information (E-F)

Deputy sheriffs and employees shall not use or release official or confidential information for personal use and/or gain or for any other unauthorized purpose.

200.7.3 Communication of Confidential Information (F)

Deputy sheriffs and employees shall not communicate, to any person, information that may: (i) jeopardize an arrest, law enforcement action, or investigation; or (ii) aid a person to escape or attempt to escape.

200.8 Interviews of Inmates (B)

Deputy sheriffs and employees shall not allow inmates to be interviewed, photographed, or video or tape recorded except as authorized by Department Order or written procedure or at the specific direction of the Executive Director of Safety Sheriff, division chief, major, public information officer (PIO), or their designees.

200.9 Full Attention to Duties (A-F)

Deputy sheriffs and employees shall not carelessly, intentionally, or negligently fail to devote their full attention to their duties in accordance with the policies and procedures of their assigned posts.

200.10 Use of City Equipment (B-D)

Deputy sheriffs and employees shall not use city equipment for personal gain or personal use when such use is prejudicial (detrimental) to the efficient and orderly performance of their assigned duties and/or the operation of the Department, or is in violation of Department or City rules.

200.10.1 Appropriating Property (F)

Deputy sheriffs and employees shall not appropriate any lost, found, seized, or forfeited evidential or Departmental property to their own use.

200.11 Sleeping on Duty (D-F)

Deputy sheriffs and employees shall not sleep while on duty.

200.12 Abandoning Post (B-F)

Deputy sheriffs and employees shall not abandon their posts or duties until relieved without good cause, or by permission of a supervisor.

200.13 [Deleted]

200.13.1 Disobeying Lawful Order (C-F)

Deputy sheriffs and employees shall not disobey any lawful order of a supervisor, including supervisory orders relayed by a person of lesser or equal rank. (Please see Appendix C of the Discipline Handbook regarding conflicting or unlawful orders.)

200.13.2 Duty to Report Unlawful Order (B-D)

Deputy sheriffs and employees who are given an order that they believe to be unlawful shall report that order to AIU.

200.14 Drug Testing & Physical and/or Mental Examinations (F)

Deputy sheriffs and employees shall not:

- (a) Disobey or fail to submit to a direct order from a supervisor to take a required medical test when such test is job related and consistent with business necessity.
- (b) Refuse a direct order to take a required drug or alcohol test when the Sheriff, division chief, or their designee has reasonable suspicion of drug usage, including alcohol, or other such medical problems that could affect the performance of duties or integrity of the Department.

200.15.1 Respect for Fellow Deputies, Employees, and Members of the Public (B-C)

Deputy sheriffs and employees shall treat other members of the Department (including supervisors), other City employees (including supervisors), vendors, and other members of the public with the respect due them including, but not limited to, refraining from uttering any disrespectful language.

200.15.2 Abuse of Fellow Deputies, Employees, and Members of the Public (D-F)

Regardless of position or rank, deputy sheriffs and employees shall not be abusive including, but not limited to, uttering any mutinous, insolent, or abusive language toward fellow deputy sheriffs (including supervisors), other City employees (including supervisors), vendors, or other members of the public.

200.15.3 [Deleted]

200.16 Failure to Perform Duties (A-F)

Deputy sheriffs and employees shall perform the required duties of their assignments and use sound judgment and discretion in the performance of their duties.

200.17.1 Failure to Aid and Protect Fellow Deputies – Unreasonable (D)

Members of the Department shall not unreasonably fail to assist and protect each other and those with whom members come into contact during the performance of their duties.

200.17.2 Failure to Aid and Protect Fellow Deputies – Intentional or Reckless (F)

Members of the Department shall not intentionally or recklessly fail to assist and protect each other and those with whom members come into contact during the performance of their duties.

200.18 On Duty Presence at Adult/Liquor/Marijuana Establishments (B-C)

Deputy sheriffs on duty or in uniform shall not enter any adult, liquor, or marijuana establishment, except when necessary in the performance of duty. Officers are not prohibited from eating in restaurants that are licensed to serve liquor.

200.19 Performance of Duties (A-F)

Deputy sheriffs and employees shall at all times be courteous and civil when carrying out their duties.

200.20 [Not Used]

200.21 Interfering with Grievance Process (D-F)

No deputy or employee shall interfere with the departmentally established administrative means for resolution of inmate problems.

200.22 Inappropriate Computer Use (A-F)

Electronic media shall not be used for knowingly transmitting, retrieving, or storing any communication that is discriminatory or harassing, derogatory to any individual or group, obscene, defamatory, or threatening, or engaged in for any purpose that is illegal or contrary to the City's policies or business interests.

200.23 Giving Name and Badge Number (A-B)

When a request is made for a deputy or employee's name or badge number, the employee shall provide the requested information in writing within a reasonable amount of time.

200.24 Discourtesy (B-C)

Deputy sheriffs and employees shall at all times be courteous and civil when carrying out their duties.

GENERAL WORK-RELATED CONDUCT OR BEHAVIOR (300.00 – 399.99)

300.1 Enforcing Criminal Statutes (B-E)

Deputy sheriffs and employees shall not actively enforce or attempt to enforce the criminal statutes of the State of Colorado or the ordinances of the City and County of Denver, except those relating to their specific duties, prescribed by the City Charter provisions, department policies, written procedures, and these rules and regulations, unless by the express order of the Executive Director of Safety or Sheriff or at the request for assistance from a police officer or as a private citizen.

300.2 Soliciting Preferential Treatment (C-F)

Deputy sheriffs and employees shall not display any badge or Department identification, identify themselves as Department members, or otherwise attempt to use their position as Department members to solicit or attempt to solicit any preferential treatment not extended to the general public or to solicit or attempt to obtain any benefit to which they would not otherwise be entitled, except in furtherance of official duties or as allowed by Department or City rule, policy, procedure, or authorized practice.

300.3 [Deleted]

300.4 Reporting Change of Contact Information (A)

Deputy sheriffs and employees shall report a change of residence or telephone number in Workday within seventy-two (72) hours after such a change is effective.

300.5.1 Political Activity (B)

Deputy sheriffs and employees shall not engage in political activity while on duty.

300.5.2 Soliciting Money for Political Purposes (B)

Deputy sheriffs and employees shall not solicit money or other things for political purposes while in uniform or on duty or in any room or building occupied for the discharge of official Sheriff Department duties.

300.5.3 Giving Testimonials, Seeking Publicity (A-B)

Deputy sheriffs and employees, while in uniform or while representing themselves as employees of the Department, shall not give testimonials or permit their names or photographs to be used for advertising purposes without the approval of the Sheriff.

300.5.4 Soliciting Business (B)

Deputy sheriffs and employees shall not solicit subscriptions; sell books, papers, tickets, merchandise, or other things; or collect or receive money or other things of value from the public for any purpose whatsoever while on duty or in uniform or representing oneself as a member of the Department, except as authorized by the Sheriff.

300.6 Feigning Illness (D-E)

Deputy sheriffs and employees shall not feign illness or injury in an effort to avoid the duties or responsibilities of an assignment.

300.7.1 [Deleted]

300.7.2 Drinking to Excess (C)

Deputy sheriffs and employees shall not consume alcoholic beverages while off duty to an extent that results in the commission of an act that brings discredit upon the Department.

300.8 Drinking on Duty (E-F)

Deputy sheriffs and employees shall not consume alcoholic beverages while on duty or while in uniform.

300.9 Use of Controlled Substance (F)

Deputy sheriffs and employees shall not use or possess any controlled substance as such substances are defined under Colorado Revised Statutes, except according to prescription and under the supervision of a licensed medical professional or when such possession is required in the performance of their regular duties and responsibilities or authorized by the Sheriff.

300.10.1 Immoral Conduct (D-F)

Deputy sheriffs and employees shall not indulge in immoral, indecent, or lewd conduct that would impair the orderly performance of duties or cause the public to lose confidence in the Department.

300.10.2 Sexual Misconduct (F)

While on duty, deputy sheriffs and employees shall not engage in any conduct or solicit another to engage in any conduct for the purpose of sexual gratification, sexual humiliation, or sexual abuse. The same conduct is also prohibited while off duty, either in uniform in a public place or in any vehicle or facility to which a Deputy or employee has access by virtue of his/her authority. The consent of another to engage in such sexual conduct or sexual acts is immaterial to finding a violation of the rule.

300.10.3 Sexual Misconduct with a Prisoner (F)

Deputy sheriffs and employees shall not engage in any sexual act or other conduct for the purpose of sexual gratification, sexual humiliation, or sexual abuse with any person in the care and custody of the Denver Sheriff Department or any other law enforcement or correctional agency. Deputy sheriffs and employees shall not solicit any person in the care and custody of the Denver Sheriff Department or any other law enforcement or correctional agency to become involved in any such sexual activity. The consent of any person to engage in any such sexual conduct or sexual act is immaterial to finding a violation of the rule.

300.11.1 Conduct Prohibited by Law (A-F)

Deputy sheriffs and employees shall not violate the Charter of the City and County of Denver, any municipal ordinances, court orders, or state or federal statutes.

300.11.2 Aggravated Conduct Prohibited by Law (F)

Deputy sheriffs and employees shall not violate any state or federal statutes, specifically as they involve:

- (a) Any felonious conduct;
- (b) Any conduct prohibited as a Class One Misdemeanor; or
- (c) Any criminal conduct committed on duty or under color of authority.

300.11.3 Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)

Deputy sheriffs and employees shall not conspire with another person or persons to commit any act in violation of a court order, City Charter, municipal ordinance, or state or federal statute.

300.11.4 Self-Reporting Criminal Arrest or Charges (C-D)

A deputy sheriff or employee shall immediately self-report to the AIU whenever he or she is arrested for, charged with, or convicted of a criminal offense, or becomes aware that he or she is under investigation now, or has been under investigation in the past, for a criminal offense or when served with a restraining order issued as the result of allegations of domestic violence or criminal activity. This rule is not intended to apply to the requirements set forth in CSR 15-15 A (2) regarding traffic violations except alcohol- and drug-related offenses.

300.11.5 Self-Reporting License Suspension or Revocation (C)

A deputy sheriff or employee shall immediately self-report to the AIU whenever his or her driving privilege has been suspended or revoked or upon receiving notice of a pending action of suspension, restriction, or revocation.

300.11.6 Conduct Prejudicial (A-F)

Deputy sheriffs and employees shall not engage in conduct that: (i) is prejudicial to the good order and effectiveness of the department; (ii) brings disrepute on, or compromises, the integrity of the City or the Department; or (iii) is unbecoming of a deputy sheriff or employee.

300.12 [Deleted]

300.13 [Deleted]

300.14 [Deleted]

300.15.1 Accepting Presents or Gratuities (C)

Deputy sheriffs and employees shall not accept presents, gratuities, or anything else of value from any non-inmate in any situation that may present the appearance of a bribe or a conflict of interests or duties.

300.15.2 Duty to Report Gift (A-C)

Any deputy sheriff or employee receiving any item in violation of Rule 300.15.1 and unable to refuse or return it shall report the gift and the situation through the chain of command to the Sheriff for a determination of the proper disposition of the gift.

300.16 Unauthorized Use of Equipment (A-E)

Deputy sheriffs and employees shall not use department issued equipment or items except in the manner established and authorized and only for the official duties or functions authorized, unless the specific action or use has been approved by the Sheriff, division chief, or their designee.

300.17.1 [Deleted]

300.17.2 Prohibited Associations (D-F)

Deputy sheriffs and employees shall not knowingly associate with, accompany, correspond with, consort with, or develop a personal relationship with a current or former inmate or other individual within five (5) years of the inmate's release from supervision by the criminal justice system, without specific approval from the Sheriff. If the former inmate or other individual is a family member of the deputy or employee, the deputy or employee shall follow only the reporting requirements. Criminal justice supervision includes incarceration, parole, probation, house arrest, halfway house placement, or any other lawful custody or supervision by a law enforcement body. Family members include the deputy's or employee's spouse, parent, step-parent, legal guardian, grandparent, blood/step brother or sister, aunt, uncle, niece, nephew, first cousin, step/blood children.

300.17.3 Reporting of Prohibited Associations (C-D)

Deputy sheriffs and employees shall immediately report in writing to the Administrative Investigations Unit any continuing relationships with prisoners, ex-prisoners, the family of current or ex-prisoners, reputed crime figures, or any person the employee has reasonable belief to suspect to be engaged in or planning to commit criminal activities. The Department, on learning of the relationship, shall determine whether further contact is likely to impair the Department's reputation, adversely affect the employee's credibility and integrity, or create an appearance of impropriety or conflict of interest. If such a determination is made, the Sheriff may prohibit or limit such future contacts upon penalty of disciplinary action for disobedience of a direct order.

300.17.4 Prohibited Utilization of Prisoners (E-F)

Deputy sheriffs and employees shall not solicit or allow performance of work by prisoners for themselves or for personal gain.

300.18 Safeguarding Department Property (A-B)

Deputy sheriffs and employees shall safeguard all issued items such as, but not limited to, their badge, identification cards, insignia, books, etc. and shall promptly surrender them to a supervisor or the administrative division's office upon receipt of an order to do so or upon leaving the Department's employment.

300.19.1 Disobedience of Rule (A-F)

Deputy sheriffs and employees shall not violate any lawful Departmental rule (including CSA rules), duty, procedure, policy, directive, instruction, or order (including Mayor's Executive Order).

300.19.2 Aiding & Abetting Violation of Rules (A-F)

Deputy sheriffs and employees shall not aid, abet, or incite another in the violation of any lawful Departmental rule, CSA rule, duty, procedure, policy, directive, instruction, or order (including Mayor's Executive Order).

300.20 Requirement for Former Deputy Sheriffs and Employees to Obey Laws, Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)

Any former deputy sheriff or employee:

- (a) Who has been separated from employment with the Department due to a disciplinary action or disqualification; and
- (b) Who has a pending appeal of that disciplinary action or disqualification, or whose time to file such appeal has not yet expired shall, during the time the appeal is pending or the time for appeal has not expired, obey all court orders,

state and federal statutes, municipal ordinances, the Charter of the City and County of Denver, DSD rules and regulations, and orders issued to the officer by the Department that were in effect at the time of the officer's separation from DSD. If any former deputy sheriff or employee who violates this rule subsequently regains employment with the Department, by any means including an order of reinstatement, the Department may take disciplinary action against the former deputy sheriff or employee upon such return to service.

300.21.1 Discrimination, Harassment, and Retaliation (C-F)

Deputy sheriffs and employees are prohibited from engaging in any form of discrimination, harassment, including sexual harassment, or retaliation, based on any class or personal characteristic protected by federal, state, or local law; or as delineated by Mayor's Executive Orders, CSA rules, Executive Director of Safety policies, or Departmental orders.

300.21.2 Impartial Attitude (A-C)

Deputy sheriffs and employees shall maintain a strictly impartial attitude in the performance of their duties.

300.21.3 Impartial Attitude – Bias (D-F)

Deputy sheriffs and employees shall not deny comparable service to anyone based upon race, color, creed, national origin, gender, age, sexual orientation, ancestry, physical or mental disability, marital status, military status, political affiliation, religion, or immigration status.

300.22 Inappropriate Force on a Person (D-F)

Deputy sheriffs and employees shall not use "inappropriate force" on a person, which is any use of force on a person that falls within the definition of "inappropriate force" established in the version of the DSD Use of Force Policy that is effective when force is used.

300.22.1 [Deleted]

300.22.2 Inappropriate Force on an Animal (D- F)

Deputy sheriffs and employees shall not use "inappropriate force" on an animal, which is any use of force on an animal that falls within the definition of "inappropriate force" established in the version of the DSD Use of Force Policy that is effective when force is used.

300.22.3 Failure to Intervene in an Inappropriate Use of Force on a Person or an Animal (D-F)

No deputy sheriff shall fail to intervene to stop the use of inappropriate force on a person or animal when required to do so by the DSD Use of Force Policy that is in effect when the inappropriate force is used or attempted.

300.22.4 Pointing or Displaying a Weapon with the Intent to Threaten (F)

Deputy sheriffs and employees shall not intentionally point or display in the presence or direction of a person: a firearm, a chemical agent, a Taser, or any other weapon designed to expend a projectile with the intent to unjustifiably threaten, intimidate, harass, or coerce the person, or unjustifiably place the person in fear of having the weapon used against him or her.

300.23 Intimidation of Persons (E)

Deputy sheriffs and employees shall not intimidate a prisoner or any other person for personal reasons under the color of authority.

300.24 Secondary Employment (B-C)

No deputy or employee shall engage in secondary employment without prior authorization from the Department or in violation of Departmental Orders governing secondary employment.

300.25 Use of Department Letterhead, Badges, and Insignias (B)

Deputy sheriffs and employees shall not use Department letterheads except for authorized Departmental correspondence. Deputy sheriffs and employees shall not use or reproduce Department badges, insignias, or other logos except as authorized by the Sheriff.

300.26 Publication of Articles (A-B)

Deputy sheriffs and employees shall obtain permission from the Sheriff to publish articles as official representatives of the Department.

300.27 [Deleted]

300.28 Use of City Credit Cards and Reimbursement Requests (E-F)

Deputy sheriffs and employees shall use City-issued credit cards for official business only and shall not seek reimbursement for unauthorized purchases.

CARE AND CUSTODY OF PRISONERS (400.00 – 499.99)

400.1 Prohibited Discussions with Prisoners (A-C)

Deputy sheriffs and employees shall not discuss with a prisoner matters pertaining to that prisoner's crime or situation or the crimes or situations of any prisoner, except when necessary in the line of duty.

400.2 [Deleted]

400.2.1 Discrimination, Harassment, or Retaliation against Prisoners (F)

Deputy sheriffs and employees shall not engage in any form of discrimination, harassment, or retaliation in the treatment of prisoners or in the performance of their duties due to race, color, creed, national origin, gender, sexual orientation, age, ancestry, physical or mental disability, marital status, military status, political affiliation, religion, immigration status, or any other status protected by federal, state, or local laws, Career Service rules, or Department rules.

400.2.2 Extending Favors (D-F)

Deputy sheriffs shall not extend favors, liberties, or privileges to any prisoner except as provided by law, department policy, or written procedure.

400.3 [Deleted]

400.4.1 Humiliating, Cruel, or Harassing Treatment of Prisoners (D-F)

Deputy sheriffs and employees shall not:

- (a) Inflict, attempt to inflict, solicit, or encourage another to inflict, or knowingly permit anyone else to inflict humiliation, indignities, or cruel treatment on any prisoner; or
- (b) Taunt, embarrass, harass, or threaten; attempt to taunt, embarrass, harass, or threaten; or solicit, encourage, or knowingly permit anyone else to taunt, embarrass, harass, or threaten any prisoner.

400.4.1.1 Failure to Report Humiliating, Cruel, or Harassing Treatment of Prisoners (D-F).

Deputy sheriffs shall not fail to report any known violations of 400.4.1, Humiliating, Cruel, or Harassing Treatment of Prisoners.

400.4.2 Unlawful Detention (F)

Deputy sheriffs and employees shall not knowingly cause a prisoner to be detained with knowledge that the prisoner is eligible for release in accordance with the law and Departmental policies.

400.4.3 Wrong Person Detention Allegations (C)

Deputy sheriffs and employees shall immediately notify a supervisor if a prisoner claims that he or she is being held on another person's charges.

400.4.4 Erroneous Release (B-E)

Deputy sheriffs and employees shall not erroneously release a prisoner.

400.5 [Deleted]

400.6 Physical Abuse of Prisoners (F)

Deputy sheriffs and employees shall not inflict physical abuse; attempt to inflict physical abuse; or encourage, solicit, or permit anyone to do so. Physical injury or physical harm is not required to violate this rule.

400.7 [Deleted]

400.8.1 Failure to Protect Prisoners from Harming Themselves or other Prisoners (D-F)

Deputy sheriffs and employees shall be alert at all times to protect prisoners from harming themselves including attempting suicide or harming other prisoners.

400.8.1.1 Failure to Protect Prisoners from Harm by any DSD Employee (E-F)

Deputy sheriffs shall protect prisoners from unnecessary risk of serious bodily injury or death caused by any DSD employee.

400.8.2 Failure to Make Required Rounds (D-F)

Deputy sheriffs shall not inappropriately fail to make their required rounds. Making rounds requires that the deputy ensure safety within housing units and the welfare of each inmate.

400.8.3 Failure to Document Rounds (B-C)

Deputy sheriffs shall not fail to document rounds where required.

400.8.5 Ensuring Lighting in Housing Units (A-F)

Deputy sheriffs shall ensure that lights in housing units are operated in accordance with post orders.

400.9 Handling of Mentally Ill Inmates (B-F)

Deputy sheriffs and employees shall take reasonable precautions in handling mentally ill inmates or persons reasonably believed to be mentally ill.

400.10 Ensuring Care and Treatment of Ill or Injured Prisoners (A-F)

Deputy sheriffs and employees shall be alert for sickness or injury of prisoners and report or arrange for care and treatment of ill or injured prisoners.

400.11 Aiding & Abetting an Escape (F)

Deputy sheriffs and employees shall not aid or abet a prisoner to escape.

400.12 Prohibited Transactions with Prisoners (D-F)

Deputy sheriffs and employees shall not give or loan to a prisoner any unauthorized item nor borrow from an inmate any article, money, or item without express permission from a supervisor. Supervisors cannot give permission to give or loan inmates items considered contraband without the express permission from the Sheriff. Supervisors cannot give permission to give or loan an inmate items, when such action would violate the law.

400.13 Prohibited Bartering with Prisoners (D-F)

Deputy sheriffs and employees shall not buy, exchange, or sell items for prisoners or gamble with inmates.

400.14.1 Suggesting Bondsmen or Attorneys (B)

Deputy sheriffs and employees shall not suggest or recommend specific attorneys, bondsmen, or bail brokers to any person arrested, except to members of their own immediate families.

400.14.2 Suggesting Bondsmen or Attorneys for Profit (E)

Deputy sheriffs and employees shall not, for personal gain or benefit, suggest or recommend specific attorneys, bondsmen, or bail brokers to any person arrested.

400.14.3 Working with Attorneys or Bonds Persons Prohibited (E)

Deputy sheriffs shall not work with or for attorneys or bonds persons in any manner that may be considered a conflict of interest.

400.14.4 Reporting Associations with Attorneys or Bondsmen (C)

Any prior existing relationship between employees and attorneys or bonds persons shall be reported to the AIU for consideration of any possible conflict of interest situation that may threaten the employee's personal integrity or damage the public trust.

400.15 Securing Bond for Arrested Person (C)

Deputy sheriffs and employees shall not personally secure bail for any arrested person without prior notification and approval of the Employee Services Major, unless that person is a member of the immediate family as defined by Career Service Rule 10-10 (includes: Spouse, child, parent, grandparent, grandchild, sibling, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, partner in a civil union, domestic partner, and the parent, child, or sibling of the partner in a civil union or domestic partner, as well as minor children for whom the employee or the employee's partner in a civil union or domestic partner provide day-to-day care and financial support.).

400.16 [Deleted]

400.17 Failure to Search (B-F)

Deputy sheriffs shall not fail to thoroughly search a prisoner, vehicle, or building area when required to do so.

400.18 Preventing Escapes & Passing of Contraband (A-F)

Deputy sheriffs and employees shall be alert to possible escape attempts on the part of prisoners or attempts by others to pass contraband to prisoners or assist them to escape.

400.19 Prohibited Use of Tobacco Products (A)

Deputy sheriffs and employees shall not smoke in any city building, transportation vehicle, or area designated as a "NO SMOKING AREA."

400.20 Prohibited Access to Tobacco Products (C-F)

Deputy sheriffs shall not allow inmates access to tobacco products including, but not limited to, chewing tobacco, cigarettes, or e-cigarettes.

VEHICLE OPERATION AND CARE AND USE OF EQUIPMENT (500.00 – 599.99)

500.1 Negligent Operation of Motor Vehicle or Equipment (A-F)

While on duty or while using or operating a Department or City motor vehicle or other equipment, deputy sheriffs and employees shall not operate such motor vehicle or other equipment in a careless or negligent manner.

500.2 Negligent Handling of City or Department Property (A-F)

Deputy sheriffs and employees shall not willfully, carelessly, or negligently lose, damage, or destroy any City or Department equipment, vehicle, or other property.

500.3 Reporting of Damage to City or Department Property (A-C)

Deputy sheriffs and employees shall report in writing to their supervisor the loss, malfunction, mechanical defect, or physical damage to a vehicle, equipment, or other City or Department property that occurs, or that they detect, during their tour of duty. Such written report shall be submitted prior to the end of the shift.

500.4 Obedience to Traffic Laws (A-F)

Deputy sheriffs and employees while on duty shall obey all traffic laws unless otherwise authorized by Department rules.

500.5 Unauthorized Use of City Vehicles (A-E)

Deputy sheriffs and employees shall not use city vehicles for purposes other than official duties, unless specifically authorized by the Sheriff. Any personal use of city vehicles shall be prohibited except as authorized by the Mayor's Executive Order No. 25, Internal Revenue Service Directives for Denver Sheriff Department use of vehicles, and the City's Fiscal Accountability Rules.

Personal use shall be defined as any use of a city vehicle, including commuting, that is not directly related or connected to official duties as defined by Internal Revenue Service (IRS) regulations.

500.6 Care of City Vehicles (A)

Deputy sheriffs and employees shall make sure that City vehicles are properly refueled, cleaned, and serviced according to schedule.

500.7 Preventing Unauthorized Use of Department Property (A-F)

Deputy sheriffs and employees using or responsible for any vehicle, tool, equipment, or other department property shall take reasonable precautions to prevent unauthorized use.

500.8 Use of Emergency Equipment (B-D)

Deputy sheriffs and employees shall not operate city vehicles outside the normal traffic rules unless the vehicle is equipped with both emergency lights and siren, and only while making full use of all emergency equipment in an actual emergency. Use of emergency lights and sirens in personal vehicles by deputy sheriffs and employees is prohibited except when utilized as a volunteer fire fighter as authorized by a Fire Protection District.

500.9 Use of City Gasoline Cards (E-F)

City gasoline credit cards may be used for official vehicles in the conduct of official business. City gasoline credit cards may be used for private vehicles only if specifically authorized by the Sheriff.

500.10 Ensuring Responsible Use of Department Property (A)

Deputy sheriffs and employees using or responsible for any vehicle, tool, equipment, or other department property shall ensure all such items are cleaned and properly stored after use.

500.11 Unauthorized Transportation of Persons (A-E)

No transport of persons, other than normal routinely scheduled operations, shall be permitted except as authorized by the Sheriff.

510.01 Vehicle Pursuit Policy (D-F)

Deputy sheriffs shall not pursue or intentionally follow or trail any vehicle while in a Departmental vehicle or another vehicle. Although deputy sheriffs have limited authority to make a lawful arrest as specifically authorized by the orders and written directives of the Executive Director of Safety, deputy sheriffs do not have the authority to stop, pursue, follow, or trail any moving vehicle. In the event of a crime's being committed in the presence of a deputy sheriff, and the suspect enters or is in a moving vehicle, the deputy sheriff must contact the Denver Police Department and advise the Denver Police Department of the description of the party/parties involved and the make, model, and color of the vehicle.

FIREARMS AND LESS LETHAL DEVICES (600.00 – 699.99)

600.1 Carrying of Firearms (C)

Deputy sheriffs while in uniform shall carry firearms to and from their place of duty, and while on duty as specified and required by established written procedures.

600.2 Authorized Weapons & Ammunition (C-F)

Deputy sheriffs shall carry and use only the weapons and ammunition issued or specifically authorized by department policy or other directive of the Sheriff.

600.3 Storage of Firearms and Less Lethal Devices (C-F)

Department firearms and less lethal devices shall be safely stored whether on or off duty.

600.4 Reporting Defects in Firearms and Less Lethal Devices (A-F)

Deputy sheriffs shall be responsible to ensure that all firearms and less lethal devices carried or issued are reasonably clean and free from defect or dangerous adjustment or modifications. Any malfunction, defect, or problem detected shall be reported to a supervisor in writing prior to the end of the shift. Any Department-issued firearm or less lethal device in need of repair shall be turned over to the Denver Police/Sheriff Department firing range or DSD Training Academy for repair.

600.5 Secure Storage of Firearms (B-F)

Deputy sheriffs shall remove and store all weapons and ammunitions before entering the secure area of any detention facility.

600.6 Prohibited Display of Firearms and Less Lethal Devices (C-F)

Deputy sheriffs shall not unnecessarily draw or display firearms and less lethal devices.

600.7 Unauthorized Access to Departmental Firearms, Less Lethal Devices, & Ammunition (C-F)

Deputy sheriffs shall not allow unauthorized persons access to Departmental firearms, less lethal devices, or ammunition.

600.8 Discharge of Firearms or Less Lethal Devices (C-F)

In the performance of their duties, Deputy sheriffs shall only intentionally discharge firearms and less lethal devices as provided in Department policies.

600.9 Careless Handling of Firearms and Less Lethal Devices (C-F)

Deputy sheriffs shall not carelessly handle a firearm or less lethal device at any time.

600.10 Restrictions on Non-Departmentally Approved Firearms or Less Lethal Devices (C)

Deputy sheriffs, while on duty, shall carry only departmentally authorized firearms and less lethal devices, either on their person or in vehicles.

ARRESTS AND SERVICES (700.00 – 799.99)

700.1 Lawful Arrests (C-F)

While acting within the scope of their authority, deputy sheriffs shall only make lawful arrests as specifically authorized by the orders and written directives of the Sheriff and Executive Director of Safety.

700.2 [Deleted]

700.3 Compliance with Court Orders (B-F)

Deputy sheriffs and employees shall comply with all court orders.

700.4 Ensuring Valid Arrest Warrant (C-E)

Deputy sheriffs shall have a reasonable belief that any warrant for arrest is valid and that the person about to be arrested is the person described therein.

700.5 Unauthorized Service of Process (A-B)

In their official capacity, deputy sheriffs shall not accept or serve any warrant, subpoena, writ, or other legal process directly from an attorney or other party in any manner not consistent with the lawful duties of the Denver Sheriff Department and assigned through proper channels.

700.6 [Deleted]

700.7 Notification of Defense Subpoena (C)

Deputy sheriffs and employees subpoenaed to testify for the defense in any trial or against the City of Denver or interest of the Department in any hearing or trial shall forthwith notify his/her commanding officer, District or City Attorney, and Civil Liability, as necessary.

COURTROOM DUTIES AND PROCEDURES (800.00 – 899.99)

800.1 Obeying Orders of the Court (C-D)

Deputy sheriffs shall obey orders of the judge when issued from the bench. Should such an order be contrary to Departmental orders, policies, or procedures, they shall immediately notify a supervisor prior to carrying out the order.

800.2 Conduct in Court (C)

Deputy sheriffs shall not show any emotion or prejudice toward the defendant, witnesses, attorneys, or the judge in any case while on duty or while in uniform.

800.3 Taking Custody as Directed by the Court (D-E)

Deputy sheriffs shall take custody of any person delivered or directed to them by a Judge or Magistrate and be responsible for their custody until properly relieved.

800.4 [Deleted]

800.5 Safeguarding and Transmitting Court Orders (B)

Deputy sheriffs shall make sure that all disposition, legal papers, court orders, writs, mittimus, etc., are safeguarded and transmitted to the appropriate location or person for proper action.

800.6 [Deleted]

800.7 Unauthorized Delegation of Custody (D-F)

Deputy sheriffs shall not delegate custody of any prisoner to any unauthorized person.

800.8 Referral of Questions of Law & Court Operations (A-B)

Deputy sheriffs and employees shall refer all questions and requests by prisoners or other persons to the court or the counsel when such matters relate to the law or court operations.

800.9 News Media Reporting (A-C)

Deputy sheriffs shall not assist or interfere with members of the news media in their reporting of court proceedings without good cause.

800.10 Unauthorized Communication with Prisoners (B)

Deputy sheriffs shall not permit any unauthorized persons, including members of the prisoner's family, to converse with the prisoner while court is in session, except by a direct order of the judge.

800.11 Unauthorized Visits with Prisoners (C)

Deputy sheriffs shall not allow visits with prisoners in the courtrooms or Denver Sheriff Department holding areas but shall refer such requests to the supervisor on duty.

800.12 [Deleted]

800.13 Attendance in Court (B-C)

All deputy sheriffs and employees who receive subpoenas shall make proper return on each and will be held strictly accountable for appearance on a punctual basis.

TRANSPORTATION OF PRISONERS (900.00 – 999.99)

900.1 Properly Identifying Prisoners (B-C)

Deputy sheriffs shall ensure proper identification of prisoners prior to accepting custody for transport.

900.2 Ensuring Required Paperwork (A-B)

Deputy sheriffs shall ensure possession of any necessary or required paperwork or legal documents when accepting custody of a prisoner.

900.3 Ensuring Transportation of Prisoner Property (A-C)

Deputy sheriffs shall ensure that the property of prisoners to be transported is accounted for prior to and during the transportation and safely deposited with the receiving officer.

900.4 Searching Prisoners (B-F)

Deputy sheriffs shall ensure a complete and thorough search of all prisoners prior to transport.

900.5 Search of Transport Vehicle (B-F)

Deputy sheriffs shall make a complete and thorough search and inspection of the transport vehicle, checking for contraband and checking all vehicle restraints and safety devices, prior to loading any prisoners.

900.6 Ensuring Safety of Persons in Custody During Transport (B-F)

Deputy sheriffs shall be responsible for the custody and safety of persons in their custody during transport.

900.7 Proper Restraint of Prisoners (D-F)

Deputy sheriffs shall use proper security restraints to transport as required by established procedures.

900.8 Transport of Female Prisoners (A-C)

Male deputy sheriffs transporting a prisoner of the opposite sex in custody shall log their mileage at the time of departure and arrival.

900.9 Monitoring of Radio (A-B)

During transport deputy sheriffs shall monitor the appropriate radio channel.

900.10 [Deleted]

900.11 Unnecessary Stops During Transport (A-D)

Deputy sheriffs shall not make any unnecessary stops during transport and shall notify dispatch of any detour or unscheduled necessary stops.

EXTRADITION OF PRISONERS (1000.00 – 1099.99)

1000.1 Timely Extradition (C)

Deputy sheriffs shall follow established schedules for extradition as closely as possible. Any problems or modifications to these established plans or schedules shall be cleared with the Court Services captain or designee prior to proceeding with other arrangements. In the event of an emergency, notification of changes shall be made as soon as possible.

1000.2 [Deleted]

1000.3 Authorized Expenses (A-C)

Deputy sheriffs and employees shall comply with all rules and expenditure procedures established by the City and County of Denver and by the Department.

1000.4 Federal Regulations Regarding Firearms on Airplanes (A-F)

Deputy sheriffs shall comply with all federal regulations regarding firearms on airlines. All deputy sheriffs going on an extradition must first complete and pass the Federal Aviation Administration (FAA) training course.

SUPERVISORY AND ADMINISTRATIVE CONDUCT (1100.00 – 1199.99)

1100.1 Compliance with Policies & Rules (A-F)

Supervisors, Acting Supervisors, and administrators shall ensure that all policies, rules, duties, orders, and procedures are not altered, modified, changed, or ignored except in an emergency when the situation makes it impossible or inadvisable to follow. If this circumstance arises, supervisors shall notify their immediate supervisor as soon as possible and follow with a written report explaining the necessity of the action.

1100.2 [Deleted]

1100.3.1 Discrimination Against Member of Protected Class (D-F)

Supervisors and administrators shall not discriminate in the treatment of employees or in the exercise of their authority due to race, color, creed, national origin, gender, sexual orientation, age, disability, political affiliation, immigration status, or any other status protected by federal, state, or local laws.

1100.3.2 Discrimination Based on Union Affiliation (C-F)

Supervisors and administrators shall not discriminate in the treatment of employees or in the exercise of their authority due to a subordinate's union affiliation or permissible union activities.

1100.3.3 Influencing Union Affiliation (C)

Supervisors shall not influence or attempt to influence employees to join, or to refrain from participation in, any union, fraternal order, or employee organization.

1100.4 Relationships with Other Employees (A-F)

Supervisors and administrators shall limit their on-duty actions and relations with other employees to those actions prescribed by their duties and procedures or actions considered reasonable and appropriate to the work situation.

1100.5 Soliciting Personal Services (C-F)

Supervisors and administrators shall not assign, request, or knowingly allow subordinates to perform personal services for them or for other individuals while on duty, while on city property, or while using city equipment.

1100.6 Special Treatment of Employees (C-F)

Supervisors and administrators shall not use their position or authority to request from their subordinates, in on or off duty jobs or situations, any favors, special treatment, or other special considerations not routinely granted to all employees.

1100.7 Disclosure of Business or Intimate Personal Relationships (C)

Supervisors and administrators shall disclose to the Sheriff any business relationship or any intimate personal relationship or any obligations involving them and any subordinate employee in their chain of command that a reasonable person would view as a potential bias in the supervisor/subordinate relationship.

1100.8 Failure to Supervise (B-F)

Supervisors are required to fulfill all obligations, duties, and responsibilities of their rank.



SHERIFF DEPARTMENT OF THE
CITY AND COUNTY OF DENVER
DENVER, COLORADO

DISCIPLINE HANDBOOK PROVISIONS AND THEIR
INTENDED COMPLIANCE WITH CAREER SERVICE
RULES AND DISCIPLINE PRINCIPLES

APPENDIX G

UPDATED FEBRUARY 1, 2024

Approved by the
CITY ATTORNEY'S OFFICE
EXECUTIVE DIRECTOR OF SAFETY
SHERIFF

Discipline Handbook Provisions and Their Intended Compliance with Career Service Rules and Discipline Principles

Brief Summary of Efforts to Revise Disciplinary Policies and Procedures on the Denver Sheriff Department

Beginning in January of 2009, the Department of Safety and the Denver Sheriff Department began a collaborative process involving approximately 90 volunteer members representing a cross section of stakeholders, including concerned citizens, to study and recommend changes to what was perceived as an ineffective discipline system. The participants in the process were designated the Denver Sheriff Discipline Advisory Group (DAG).

The Sheriff Department was guided in this process by its participation in a similar process led by the Department of Safety between 2004 and 2007 that resulted in the creation of a discipline handbook and a matrix-based system for determining appropriate discipline on the Police Department. That system went into effect in October of 2008.

During the course of that process, the Sheriff Department recognized that many of the areas of concern regarding the administration of discipline on the Police Department were also of concern to the Sheriff Department. These included, but were not limited to:

- (1) A lack of any written guidelines for determining whether an alleged violation of Department rules was provable and, if proved, what the appropriate discipline should be.
- (2) A lack of sufficient notice to deputies and the public as to the range of disciplinary sanctions applicable to a given type of case.
- (3) The perception of deputy sheriffs that the discipline system was unfair, arbitrarily administered, and based on improper considerations such as position, status, or “connections” within the Department.
- (4) The perception of the public that the Department’s discipline system was heavily weighted in a deputy’s favor and that disciplinary sanctions were inadequate, particularly with regard to what it considered to be cases of excessive force.

However, the Department of Safety and the Sheriff Department also understood one significant difference in the administration of discipline between the Police Department and the Sheriff Department. The Police Department, as part of the Denver Civil Service personnel system along with the Denver Fire Department, is bound by a provision of the Denver City Charter and by Civil Service Commission Rules that indicate discipline imposed on any member of the Police Department cannot be “inconsistent with discipline received by other members of the Department under similar circumstances.” The application of these provisions led to a practice of what became known as “comparative” or “comparable” discipline. In short, discipline on the Police Department was determined by “comparing” the present case to discipline issued in prior cases that were determined to be “similar.” For

reasons discussed below, the practice of “comparative” or “comparable” discipline was found to be extremely ineffective by the Department of Safety and was one of the reasons, among many, that the Department went through the collaborative process which led to revisions to its discipline system.

The Sheriff Department, on the other hand, is part of the significantly larger Denver Career Service personnel system to which the City Charter provision prohibiting “inconsistent” discipline and the rules of the Civil Service Commission do not apply. Disciplinary appeals decisions of the Career Service Board have repeatedly emphasized that distinction, indicating that the Career Service disciplinary system is not a “comparative” discipline system and that any discipline imposed on a Career Service employee need only be “within the range of alternatives available to a reasonable and prudent administrator.”

As a result of the collaborative process begun in January of 2009, the Sheriff Department adopted a matrix based system of determining appropriate discipline and created a Discipline Handbook that detailed the principles and the processes of the revised discipline system. That system became effective in January of 2011.

In 2014, the Sheriff Department began a series of “review” processes to address concerns raised regarding, among other issues, the effectiveness of the administration of discipline on the Department following the creation of the Discipline Handbook in January of 2011. A significant part of those review processes included the consideration of issues raised by the Career Service Board in its disciplinary appeals decisions. Briefly summarized, these decisions raised the issues of:

- (1) Whether the Sheriff Department had created or “pushed” the Sheriff’s discipline system in the direction of a comparative discipline system; and
- (2) Whether, what was perceived by the Board as the inconsistent application of conduct categories contained in the Discipline Handbook, rendered the discipline system unfair and arbitrary.

These review processes and the consideration of the issues raised by the Career Service Board resulted in revisions to this Discipline Handbook as discussed below.

The Department of Safety Experience with “Comparative” Discipline

In creating the Discipline Handbook for both the Police and Sheriff Department, the Department of Safety faced different challenges. Knowing that the Charter-mandated requirement of “consistency” applied to the Police Department, the challenge was to create an effective discipline system that accomplished Charter-required consistency without the practice of comparing each case to prior disciplinary decisions. Over a period of time, the ineffectiveness of such a practice became apparent as evidenced by, but not limited to, the following:

- (1) The practical difficulty of defining and applying any criteria for what would constitute a “comparable” case. The practice of comparing only “similar facts” and “similar discipline histories” was found to be insufficient because of numerous additional factors that were relevant to whether cases were “similar;”

- (2) There was no limitation on the age of prior cases that could be used as “comparators.” Variables such as changes in administrations, departmental priorities, or community expectations were not sufficiently considered.
- (3) There was no methodology for providing notice to Department members of a change in disciplinary standards or sanctions for future cases which departed from prior practices. In effect, history, once made, could not be rewritten or corrected.
- (4) There was a reluctance by the Department to consider appropriate mitigating factors in certain cases based on the concern that the case could be used to limit the level of discipline in future cases.
- (5) What was perceived as the inability to sufficiently discipline or dismiss individuals involved in serious misconduct led to the practice of placing offending officers in “non-enforcement” positions based on the concerns of creating future civil liability or officers re-offending.
- (6) The discipline system had no “deterrent effect” on serious officer misconduct where an officer was aware that he/she would not likely be dismissed from the Department for certain offenses based upon the fact that previous incidents of similar misconduct by others did not result in dismissal.
- (7) The ineffectiveness of the “comparative” discipline and the discipline system in general was repeatedly alleged in civil lawsuits against the City and the Department as grounds for liability, particularly in cases alleging excessive force.
- (8) Public dissatisfaction with the perceived inability of the Department to effectively discipline officers greatly increased. Vocal objection to the “comparable” discipline system was voiced at community meetings and other forums and negatively affected the Department’s professional image and reputation in the community. Media editorials often called for the elimination of “comparative” discipline.

The above considerations, among others, led to the creation of a Police Department system that stressed the need to achieve consistent disciplinary outcomes as a means of meeting the Charter-mandated requirement of consistent discipline through the application of the provisions of the Handbook rather than by conforming disciplinary sanctions to prior “similar” cases.

The Sheriff Department, on the other hand, was fully aware during its reform process that the Charter-mandated requirement of consistent discipline did not apply to Career Service employees. And, given the difficulties and dissatisfaction faced by the Police Department, the Sheriff Department had no interest whatsoever in adopting the practice of comparing present cases to previous ones. That position was bolstered by the repeated statements in Career Service Board and Career Service Hearing Officers opinions that the Career Service

discipline system was not a comparative system. To underscore its lack of intention to create a comparative discipline system, the Department specifically stated that lack of intention in the DSD Discipline Handbook. The Sheriff Department also intentionally changed any reference to “consistency” in the Police Handbook to “reasonable consistency” in the Sheriff Handbook. This was to acknowledge that “consistency” as was intended in the Civil Service system was not being sought. “Reasonable consistency” was intended to mean reasonably consistent application of matrix principles in order to achieve rationally- based and fair discipline.

The challenge facing the Sheriff Department was in creating an effective discipline system that was perceived as fair and not based upon improper factors such as bias or favoritism by both the public and members of the Department. That system also needed to be compatible with Career Service personnel system concepts of: (i) behavioral correction, if possible; (ii) sanctions based upon the seriousness of the misconduct; (iii) discipline being progressive where possible; and (iv) imposing disciplinary sanctions considered to be within the range of alternatives available to a reasonable and prudent administrator.

Nevertheless, despite having already clearly stated its intention to not create a comparative discipline system, the Sheriff Department Discipline Handbook has been revised as follows:

- (1) The elimination of language referencing “consistency” or “reasonable consistency” in the imposition of discipline to make clear that the provisions of the Handbook are not intended to be interpreted as creating or implying a comparative discipline system.
- (2) The elimination of any language suggesting the review or consideration of prior discipline cases in order to determine appropriate conduct categories (section 15.0).

The Purpose of Discipline: The Department of Safety’s Consideration of Deterrence in Serious Cases

Career Service Rule 16-41 Purpose of Discipline, states as follows:

The purpose of discipline is to correct inappropriate behavior or performance, if possible. The type and severity of discipline depends on the gravity of the offense. The degree of discipline shall be reasonably related to the seriousness of the offense and take into consideration the employee’s past record. The appointing authority shall impose the type and amount of discipline he or she believes is needed to correct the situation and achieve the desired behavior or performance.

The goals and purposes of discipline defined by the Department are detailed in section 11.0 of this Discipline Handbook. The Department effectively adopted the purposes of discipline as stated in the Career Service rule but also included one additional factor the Department deems critical – the possible deterrent effect of discipline. This concept was discussed extensively and agreed upon by members of the original Discipline Advisory Group of 2009 - 2010 and continued to be considered critical in the most recent review processes for a number of reasons, including, but not limited to:

- (1) Deputy sheriffs have authority substantially different from the vast majority of other employees in the Career Service personnel system.
- (2) The consequences of serious misconduct by deputy sheriffs can include the deprivation of constitutional rights; serious risk to the safety of inmates, other deputies, and the public; serious injury or death; and extensive exposure to civil liability on the part of the City or the Department.¹
- (3) In light of the consequences that can flow from serious deputy misconduct, the Department has a great interest in discouraging misconduct both prior to, and subsequent to, an act of serious misconduct. Additionally, an effective discipline system should not only seek to address the misconduct of an offending deputy but also to discourage misconduct on the part of other deputies.
- (4) Courts have recognized that the public has a legitimate interest in the conduct of its law-enforcement officers and in holding them to a greater level of accountability than many other government employees. In public meetings and throughout the review processes conducted with regard to the Sheriff Department, citizens have stressed the importance of both effectively disciplining offending deputies and in deterring future misconduct by both the offending deputy and other members of the Department. To that end, the City of Denver has created the Office of the Independent Monitor to represent the interests of the public in assuring the proper investigation and disciplining of instances of police officer and deputy misconduct. The Monitor's office holds regularly scheduled meetings with the public and produces regularly scheduled public reports describing the course and result of the investigation of alleged instances of police officer and sheriff deputy misconduct and the disciplinary sanctions imposed (without disclosing the names of the disciplined officers/deputies).

Consequently, in serious cases, the Department does take into consideration the public interest and the desired effect of deterring future misconduct by the subject deputy and all other members of the Department when determining an appropriate disciplinary sanction.

Compliance with Career Service Principles of Progressive Discipline Career

Service Rule 16-42 Progressive Discipline states as follows:

1. Whenever practicable, discipline shall be progressive. However, any measure of discipline may be used in any given situation, as appropriate.

¹ Media reporting in 2017, indicates that since 2004, the City has paid nearly \$28 million in claims against the Police and Sheriff Departments and that 82% of all settlements of civil claims reached by the City were related to police and jail- related matters.

2. Failure to correct behavior or committing additional violations after progressive discipline has been taken may subject the employee to further discipline, up to and including dismissal from employment.
3. An employee may be dismissed without prior discipline if the facts of that employee's case warrant dismissal.

The Discipline Handbook describes a detailed process for implementing progressive discipline, where it is appropriate to do. Additionally, the Handbook has been amended to emphasize the following:

- (1) The careful and conscientious consideration of mitigation, aggravation, and special circumstances (section 17.2)
- (2) Consideration of objective indicators of rehabilitation (section 19.6.8)
- (3) Consideration of factors/circumstances believed by the subject deputy to be mitigating and presented during the course of the investigation or during the contemplation of discipline process.

Determining Appropriate Discipline – The Development of Conduct Categories and their Application to Rule Violations

Career Service Rules make clear that discipline shall be based on three general principles:

- (1) The type and severity of discipline depends on the gravity of the offense.
- (2) The degree of discipline shall be reasonably related to the seriousness of the offense and take into consideration the employee's past record.
- (3) The appointed authority shall impose the type and amount of discipline he or she believes is needed to correct the situation and to achieve the desired behavior or performance.

The rules further indicate that the above three principles are to be applied in light of progressive discipline principles. Those principles indicate that discipline shall be progressive whenever practical but that any measure of discipline may be used in any given situation, as appropriate, and that an employee may be dismissed without prior discipline if the facts of the case warrant dismissal.

Additionally, Career Service Board decisions indicate that any discipline imposed must be within the range of alternatives available to a reasonable and prudent administrator.

Finally, Career Service Rule 16-42 (B) lists the types of disciplinary sanctions available in the Career Service personnel system, in order of increasing severity as:

1. Written reprimand
2. Suspension without pay, or involuntary temporary reduction of pay
3. Involuntary demotion pursuant to Rule 9 PAY ADMINISTRATION
4. Dismissal.

Neither the standard of “within the range of available alternatives” nor any other Career Service Rule, other than those already discussed herein, provide any further guidance on the determination of appropriate discipline. However, the provisions of this Discipline Handbook and its appendices do provide guidance in the determination of appropriate discipline.

The provisions and procedures detailed in the DSD Discipline Handbook are intended to be compatible with Career Service discipline principles. The procedures provide for a consideration of the seriousness or gravity of the offense, the employee’s past record, and the application of progressive discipline when practical. It assists in ensuring that any discipline sanction is reasonably related to the seriousness of the violation and to effect the legitimate purposes of discipline. Finally, it establishes a range of alternatives from which a reasonable administration can fairly determine an appropriate disciplinary sanction.

The first step in determining an appropriate disciplinary sanction is an assessment of the type and seriousness of the misconduct. This is accomplished by determining which of a set of six conduct categories most appropriately describes the nature of the misconduct. These categories were established after extensive discussion among members of the original Discipline Advisory Group in 2009 – 2010. Much of the language of the categories was derived from descriptions of misconduct contained in Career Service and Civil Service disciplinary opinions. The discipline ranges were discussed in great detail and based upon a determination of what the group believed would be a fair and appropriate discipline for the type of misconduct described and the purposes of discipline to be achieved. Finally, the group reviewed each rule and regulation to determine which conduct category best described the conduct proscribed by the rule. In many cases, group members recognized that the rule being considered covered a range of misconduct that could be applied to more than one conduct category. This lengthy process was again completed by members of the Task Forces and Action Teams involved in the recent review processes that led to the revision of the Handbook. What is important to note is that, in all of these processes, the conduct category definitions and discipline ranges were based upon input from a cross- section of community members and City employees.

The recent Task Force and Action Team reviews of the original conduct categories resulted in revisions to Conduct Categories D, E, and F. Conduct Categories A, B, and C remained the same.

The following is an explanation of the applicability of each conduct category.

Conduct Category A

Misconduct that has a minimal negative impact on the operations or professional image of the Department.

This category is intended to apply to what is best described as “administrative” violations that have minimal impact on the day-to-day operation of the Department or its professional image. Examples include:

- RR-100.4 – Punctuality
- RR-500.6 – Care of City Vehicles.

Conduct Category B

Misconduct that: (i) has more than a minimal negative impact on the operations or professional image of the Department; or (ii) negatively impacts relationships with other deputy sheriffs, employees, agencies, detainees, or the public.

This category is intended to apply to administrative and operational violations that, based upon the circumstances in which the violation occurs, can be said to have more than a minimal impact on the operations or professional image of the Department but do not rise to the level of what is described in Conduct Category C as a pronounced negative impact. The violation may also have a minor effect on relationships with others as described in the category. These could include:

RR-100.7 – No Uniform Off Duty

RR-300.18 – Safeguarding Department Property RR-

300.26 – Publication of Articles.

Conduct Category C

Misconduct that has a pronounced negative impact on: (i) the operations or professional image of the Department; or (ii) relationships with other deputy sheriffs, employees, agencies, detainees, or the public.

This definition describes violations, when compared to Conduct Categories A and B, involve greater impact on the operations or image of the Department or on the relationships described. Examples include:

Certain instances of the violation of RR-300.21.2 – Impartial Attitude
Certain instances of the violation of RR-200.24 – Discourtesy.

The majority of violations classified as Conduct Categories A, B, or C appear in multiple categories. They require the reviewer to examine the circumstances under which the violation occurred and the extent to which the misconduct interfered with Department operations, affected the Department's image in the community or interfered with the relationships described in each conduct category. Facts used to determine the extent of interference include, but are not limited to: (i) the existence of negative media coverage; (ii) complaints from citizens or others; (iii) the impact on budget considerations; or (iv) any other articulable negative impacts arising from the misconduct.

An important consideration in assessing Conduct Category A, B, and C violations is what they do not involve. They do not involve issues that touch upon the more serious misconduct described in Conduct Categories D – F.

Taken as a whole, Conduct Categories A, B, and C address a range of conduct determined by the Department to be sufficiently addressed with a range of discipline from reprimands to relatively small amounts of suspension time.

On the other hand, Conduct Categories D, E, and F address the more serious forms of misconduct.

Conduct Category D

Misconduct that: (i) is contrary to the guiding principles of the Department or interferes with its mission to provide care and custody to inmates in accordance with those guiding principles; (ii) substantially interferes with the Department's operations or professional image; (iii) involves a demonstrable risk to the safety of a deputy sheriff, an employee, a detainee, or the public; (iv) involves the misuse of authority by using, or attempting to use, inappropriate force against an animal, where such force or attempted force is determined not to fall within Conduct Category F; (v) involves the misuse of authority by attempting to use inappropriate force against a person, where such an attempt is determined not to fall within Conduct Category F; or (vi) involves the failure to adhere to the duties to intervene in, and/or report, any use or attempted use of force falling within this Conduct Category D.

Conduct Category D involves misconduct that significantly implicates the fundamental Guiding Principles or "core values" of the Department or (unlike Conduct Categories A, B, or C) can be said to "substantially interfere" with the Department's operations or professional image. Conduct Category D also is the start of an overall scheme to analyze misconduct based on its effect on deputy, employee, detainee, or public safety. When read in conjunction with Conduct Categories E and F, violations in Conduct Category D involve a demonstrable risk to safety, while Conduct Category E involves an "actual adverse impact" on safety (such as actual injury), and Conduct Category F involves injury which rises to the level of serious bodily injury or death.²

Finally, Conduct Category D (along with Conduct Categories E and F) has been amended to place certain misconduct involving the use, or attempted use, of inappropriate force in a specifically designated conduct category. The Department has determined that issues involving the use, or attempted use, of inappropriate force, the "Duty to Report" the use, or attempted use, of inappropriate force, and the "Duty to Intervene" to stop the use, or attempted use, of inappropriate force are best handled by assigning those issues to specific conduct categories. This has been done to address issues regarding what has been perceived by the Career Service Board to be the "arbitrary" application of different conduct categories to what the Board perceived as "similar" uses of inappropriate force and to better reflect the Department's assessment of the relative seriousness of various violations involving the use and reporting of inappropriate force. (See Appendix C for further explanation.)

Examples of Conduct Category D violations include: RR-

300.7.1 – Unfit for Duty

RR-300.22.1 – Inappropriate Attempted Force RR-

300.22.2 – Inappropriate Force on an Animal.

² This general analytical scheme is intended to apply to any type of misconduct which demonstrably affects deputy sheriff, employee, detainee, or public safety (such as the improper operation of a motor vehicle or the failure to properly carry out a particular duty or function) and may include violations related to inappropriate force. However, as with any specific violation, the language of a conduct category that is more specific to the type of violation under review is generally considered the most appropriate for determining the appropriate conduct category.

Conduct Category E

Misconduct that: (i) foreseeably results in bodily injury or otherwise results in an actual adverse impact on the safety of a deputy sheriff, an employee, a detainee, or the public; (ii) involves unethical behavior or a serious misuse of authority; (iii) involves the misuse of authority by using inappropriate force against a person, where such force is determined not to fall within Conduct Category F; or (iv) involves the failure to adhere to the duties to intervene in, and/or report, any use of force falling within this Conduct Category E.

Conduct Category E continues the scheme begun in Conduct Category D with regard to issues related to safety – it involves misconduct that foreseeably results in an actual injury as opposed to simply a risk. It also involves unethical behavior or a serious misuse of authority. When read in conjunction with Conduct Category F, it requires a reviewer to distinguish between a misuse of authority or an abuse of authority with regard to certain violations.

Finally, as was the case in Conduct Category D, Conduct Category E contains specific violations of rules regarding the use, reporting, and intervention in force incidents. Examples include:

RR- 200.7.2 – Release of Confidential Information RR-
300.22 – Inappropriate Force on a Person.

Conduct Category F

Misconduct that: (i) foreseeably results in death or serious bodily injury; (ii) constitutes a willful and wanton disregard of Department guiding principles; (iii) involves any act so serious as to demonstrate a lack of the integrity, ethics, character, or fitness to hold the position of Denver deputy sheriff; (iv) involves any abuse of authority, including an abuse of the authority to use or attempt to use force against a person or animal; (v) involves the failure to adhere to the duties to intervene in, and/or report, any use or attempted use of force falling within this Conduct Category F; (vi) involves any serious or abusive conduct contrary to the standards of conduct reasonably expected of one whose sworn duties are to uphold the law and to provide for the care and custody of detainees; or (vii) involves any conduct that constitutes the failure to adhere to any conditions required by law, contract, or policy for employment as a Denver deputy sheriff.

Obviously, the most serious discipline category, Conduct Category F, involves an analysis and determination of a number of issues: They include:

- (1) Whether the misconduct results in foreseeable serious bodily injury or death.
- (2) Whether the misconduct involves a disregard for the Department's guiding principles committed with a willful and wanton state of mind. EX: RR-200.4.2 – Commission of a Deceptive Act.

- (3) Whether the misconduct is of such a serious nature that it invites the question of whether the deputy is fit to hold his/her position as a deputy sheriff. Ex: RR-400.6 – Physical Abuse of a Prisoner.
- (4) Whether the misconduct involves the use, attempted use, failure to report, or failure to intervene in inappropriate force which rises to the level of being “abusive” or constitutes “an abuse of the authority to use force,” as determined by the Department. The Department has provided in Appendix C of this Handbook an illustrative list of factors it has considered in the determination of what constitutes a Conduct Category F violation. The list is intended to emphasize that the “extent of injury” is but one factor, among many, by which the abuse of the authority to use force shall be judged. As demonstrated by the list, other factors will also be considered, regardless of the extent of injury, including, but not limited to: (i) the nature and character of the force; (ii) the purpose of the force; (iii) the force instrument or technique used; (iv) the vulnerability of the person on whom force is used; (v) any attempt to impede the discovery, reporting, or review of the force; or (vi) any instigation or provocation of the force by a deputy. (See guidelines in Appendix C for further explanation.)
- (5) Whether the misconduct is abusive or so serious that it is substantially inapposite of what is expected of a law-enforcement officer or a person responsible for the care of inmates. Ex: RR-300.10.3 – Sexual Misconduct with a Prisoner.
- (6) Whether the misconduct constitutes the failure to adhere to a condition of employment. Ex: RR-300.11.1 – Conduct Prohibited by Law (such as a domestic violence conviction which disqualifies a deputy from possessing a firearm.)

In determining the most appropriate conduct category, any reviewer must conduct the analysis outlined in section 15.0 of this Handbook, keeping the following in mind:

- (1) Conduct category definitions should be viewed as a series of “lesser included offenses” in which elements of a lesser category are also contained in a greater category. However, a careful review of the definition will reveal an element or condition that makes the greater category more serious.
- (2) Conduct Categories A – F may at times use similar wording but each increase from A through F is intended to describe an increase in the seriousness of the violation as determined by the Department.
- (3) Reviewers should not simply look for a few words that might arguably “fit” the misconduct without comparing it to other categories. Reviewers should determine whether there is another definition which is more specifically intended to address the misconduct in question or more appropriately describes the nature of the misconduct. For example, a use of force against a detainee is certainly misconduct that has a “pronounced negative

impact” on relationships with detainees (Conduct Category C), but the misconduct is more appropriately categorized as a use of inappropriate force on a person (Conduct Category E).

- (4) Most importantly, the determination of the most appropriate conduct category must be made without any attempt to reach or avoid a desired discipline level. Where the application of the most appropriate conduct category results in a potential discipline range or sanction greater or less than what a reviewer believes is appropriate, the reviewer must be able to justify adjusting the discipline by conscientiously and appropriately considering aggravating, mitigating, or special circumstances and not by “manipulating” or “shoehorning” (as perceived and described by the Career Service Board) the violation into a more desirable conduct category.



SHERIFF DEPARTMENT OF THE
CITY AND COUNTY OF DENVER
DENVER, COLORADO

SCHEDULED DISCIPLINE⁸

APPENDIX H

UPDATED FEBRUARY 1, 2024

Approved by the
CITY ATTORNEY'S OFFICE
EXECUTIVE DIRECTOR OF SAFETY
SHERIFF

⁸ The EDOS and OIM generally are not involved in scheduled discipline absent repeat violations or extenuating circumstances. Nothing in this handbook, however, prohibits the EDOS or OIM from being involved in cases involving scheduled discipline regardless of circumstances.

Scheduled Discipline for Unauthorized Leave

UAL Hours	No Priors 100.10.1	One Prior Within a Year	Two Priors Within a Year 100.10.1	Three Priors Within a Year 100.10.1
3 to 21	Coaching and Counseling	Written Reprimand	5% Temporary Reduction in Pay for 2 Pay Periods	10% Temporary Reduction in Pay for 2 Pay Periods
21.01 to 31	Written Reprimand	5% Temporary Reduction in Pay for 2 Pay Periods	10% Temporary Reduction in Pay for 2 Pay Periods	10% Temporary Reduction in Pay for 4 Pay Periods
31.01 to 42	5% Temporary Reduction in Pay for 2 Pay Periods	10% Temporary Reduction in Pay for 2 Pay Periods	10% Temporary Reduction in Pay for 4 Pay Periods	Apply Matrix
42.01 to 52	10% Temporary Reduction in Pay for 2 Pay Periods	10% Temporary Reduction in Pay for 4 Pay Periods	Apply Matrix	Apply Matrix
Greater than 52	10% Temporary Reduction in Pay for 4 Pay Periods	Apply Matrix	Apply Matrix	Apply Matrix

Scheduled Discipline for Failure to Participate⁹ in Required Firearms Qualification/Training

1 st Offense	1 Prior Within 12 Months of Current Offense	2 Priors Within 5 Years of Current Offense	3 Priors Within 7 Years of Current Offense
Counseling	Written Reprimand	5-Day Suspension	Moves to Matrix Conduct Category D

Updated February 1, 2024

⁹ Failure to participate in firearms qualification violations are covered by this appendix. Failure to pass or failure to qualify after a qualifying attempt are handled under a separate process found in DSD Department Order 1.00.2025 (6)(E)(2).

Scheduled Discipline – preventable accidents in a city owned vehicle¹⁰

Apply the points assigned in the current accident case to points accumulated (if any) by the deputy over the previous two-year period (24 months).

1-4 points	5-9 points	10-15 points	16-20 points	21 or more points
Notice of Improvement	Written reprimand	1 to 5-day suspension	3 to 10-day suspension	Moves to Matrix starting at Conduct Category D, and will require remedial driving training

Remedial driver's training can be assigned at any time and is not considered discipline.

Discipline outcomes will be based on accident point classification:

- Non-Preventable accidents will be assessed 0 points
- Preventable accidents will be assessed the number of points consistent with the penalty point schedule in state statute and used by the Colorado State Motor Vehicle Division to assess points against a driving record.
- Violations which may result in discipline greater than a written reprimand will be offered a contemplation of discipline meeting.

¹⁰ Accidents resulting in bodily injury or resulting in property damage above \$3000.00 will be referred to the AIU for investigation and shall be handled through the standard discipline process with notice to the OIM of the incident and input on the investigation and closure outcome.

Refusals to Work Mandatory Overtime

Refusals to work mandatory overtime will be handled, in part, as scheduled discipline and will fall under 200.13.1 Disobeying Lawful Order (C-F). “Deputy sheriffs and employees shall not disobey any lawful order of a supervisor, including supervisory orders relayed by a person of lesser or equal rank”.

The first violation will result in an informal, regardless of merit as to any excuse, to be issued by the Sheriff or Division Chief.

The second violation will result in a Contemplation of Discipline Meeting (“COD Meeting”) (involving the Sheriff, division chief, CAO, Scheduling, and HR, similar to UAL’s).

If there is a third violation (after a second sustained violation), the subject deputy will be provided a COD Meeting involving the typical parties present for a COD Meeting (Sheriff, division chief or major, CAO, CRU, and EDOS Office).

Cases for missed mandatory overtime will be created after the first violation and will be tracked in deputy’s history. When this occurs and upon a second violation, the deputy shall submit in writing to their respective Division Chief the reason(s) why they may have refused to work mandatory OT, along with any supporting documentation. This information shall be used in determining whether the COD with the Sheriff and Division Chief will occur.

Please refer to matrix below as well.

Occurrence in a 12-month period	Discipline	Discipline issued by
1	Informal	Sheriff or Division Chief
2	COD Meeting – up to a 10% reduction in pay for up to two periods	Sheriff
3+	COD Meeting – matrix applied for sustained charges	EDOS

Failure to Activate Body Worn Cameras

Failure to activate BWC, as required under the DSD Body-Worn Cameras policy, DSD 1.00.3001, will be handled, in part, as scheduled discipline. Scheduled discipline will be used in most cases where the failure to activate the BWC was through negligence or forgetfulness, it will not apply to cases involving intentional failure to activate or potential concealment of misconduct.

- The first violation will result in a notice of improvement, a PEPR entry, and the deputy will be required to review the BWC policy.
- The second violation will result in a written reprimand, an audit of the deputy's BWC compliance, and additional training will be considered.
- The third violation will result in a Contemplation of Discipline Meeting ("COD Meeting").

Cases for failure to activate BWCs will be created for all alleged violations and will be tracked in IA Pro as part of a deputy's case history.

- a. AIU may send out a standard questionnaire form to the subject Deputy, asking for the reason(s) why the Deputy may have failed to activate their BWC; or
- b. AIU may conduct an interview with the subject deputy and any other relevant witnesses.

Please refer to matrix below:

Occurrence in a 12-month period	Discipline/Corrective measure	Discipline issued by
1	Notice of Improvement and PEPR entry	CRU
2	Written Reprimand	Sheriff
3+	COD Meeting – matrix applied for sustained charges	EDOS