Denver Police Department Discipline Handbook: Conduct Principles and Disciplinary Guidelines

By order of the Chief of Police and approval of the Executive Director of Safety, these principles and guidelines shall apply to all violations occurring on or after October 1, 2008.

Updated Effective May 2, 2019

Policy Statement

An effective discipline system is one that is fair, rational, efficient and consistent, reflects the values of the Department, protects the rights of officers and citizens, promotes respect and trust within the Department and with the community and results in a culture of public accountability, individual responsibility and maintenance of the highest standards of professionalism.

The purpose of this Discipline Handbook: Conduct Principles and Disciplinary Guidelines is to provide sworn members of the Denver Police Department with notice of the principles and guidelines which 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 all Civil Service Commission rules regarding appeals.

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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 Police Department; to ensure employee adherence to reasonable and acceptable standards of performance and conduct; and to provide fair and equitable consequences for failing to adhere to those standards.

1.2 Police officers hold a "position of trust" – a trust bestowed upon them by the Department and the community and are, in large part, the community's most visible representatives of government. Arguably more than any other representative of government, they are given enormous discretion in carrying out their duties – discretion which also carries tremendous responsibility. Officers are granted the legal authority to seize property, restrict personal freedom and use force, including lethal force, when reasonable and necessary.

1.3 Because of the trust placed in them and the significance of the discretion and authority granted to them, officers must understand that the community has every right to expect and demand the highest level of accountability from the Department as well as individual officers. Officers 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 system is one that is fairly administered, reasonably consistent and based upon Department-wide standards known and enforced by all members of the Department and designed to ensure timely results. This system serves the public, the officers and the administration by uniformly 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 increased levels of trust within the Department as well as with the community by ensuring both clarity in expectations and accountability for actions by both the Department and the individual officer.

2.0 General Principles of Discipline

2.1 The discipline system must be fairly, efficiently, and consistently 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 Mission and Values 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 the likely consequences of the failure to adhere to Department rules and policies.

2.4 Programs and practices outside the discipline system, such as triage (also known as “filtering”), mediation, early intervention systems, education, training, mentoring and the like, which assist officers 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 officers 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 subject officers, witness officers, complainants, other witnesses, and all persons involved in the investigation and review of allegations of misconduct.

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 Timeliness is essential to the fair administration of discipline. Adherence to reasonably established timelines for the investigation and review of allegations of misconduct must be a Department priority.

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/sex (including pregnancy, childbirth, or caregiver status), sexual orientation, age, religion, political affiliation, physical or mental disability, military status, marital 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, consistent 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 which is unjust, unreasonable or unconscionable, and contrary to the goals and purposes of these Conduct Principles and Disciplinary Guidelines.

3.0 Achieving Consistency in Discipline

3.1 To achieve consistent discipline requires the consistent application of guidelines, policies and procedures throughout the Department and at every level of disciplinary review to:

3.1.1 Ensure consistency in determining whether a violation of Department rules has been proven;

3.1.2 Ensure consistency in determining a fair and reasonable disciplinary sanction if a violation has been proven; and

3.1.3 Ensure that the disciplinary sanction imposed on any officer is consistent with that imposed on other officers in similar circumstances.

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 officers with fair notice and a clear understanding of the potential consequences of misconduct and that will result in fair, equal and consistent treatment of all officers. In addition, the tremendous importance of programs and practices that can make the disciplinary system more efficient and effective or that may assist officers in modifying behaviors without the imposition of disciplinary sanctions is of equal value. Among them are triage or filtering, mediation, early intervention systems, education and training, mentoring, and recognition of officers' positive actions on behalf of the Department and the public.

4.2 Triage or Filtering

4.2.1 When the Office of the Independent Monitor (OIM) was created in 2005, the Monitor recommended that the Department initiate a "triage" or filtering approach to the review and handling of all complaints. This approach, which the Department has adopted, ensures a better allocation of Department and Internal Affairs resources. More investigation and command review time should be devoted to serious cases of misconduct as opposed to minor violations of Departmental rules and expectations. A filtering process allows for the proper allocation of Department resources in this regard. The result of the current filtering system has been greater timeliness in the handling of complaints, and fewer delays in the completion of investigations, the determination of findings and the ultimate imposition of discipline. This strategy has resulted in more equitable, meaningful and credible outcomes for both officers and citizens.

4.3 Mediation

4.3.1 The mediation of police-citizen complaints is strongly endorsed and encouraged by the Department. As a voluntary option, mediation provides both officers and citizens 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 officers and citizens.

4.3.2 Miscommunication and misunderstanding either create or exacerbate the vast majority of complaints made by citizens. Mediation is an exceptional tool for creating common ground between the Department's officers and the community. Officers and citizens are encouraged to recognize mediation as an opportunity to educate and explain. When officers who have acted entirely within policy are offered mediation to resolve a citizen complaint, the hope is that they will recognize mediation as an educational opportunity which will allow them to help a community member understand Department policy and the police perspective. Likewise, providing officers the opportunity to mediate in lieu of conducting an internal investigation gives officers a unique opportunity to understand the perspectives of complainants and the effects of officers' behavior on those persons.

4.4 Early Intervention Systems

4.4.1 Identifying problem behaviors before they result in disciplinary violations is a necessary and useful tool for both officers and supervisors. An early intervention system, to correct problem behavior as soon as it is identified, needs to be outside the disciplinary process and cannot be used in a punitive manner. Early intervention has the potential of benefiting officers and supervisors and the Department as a whole.

4.4.2 The Personnel Assessment System (PAS) is specifically designed to give supervisors the tools necessary to assess the performance of officers and to identify when an officer is in need of additional training, mentoring, supervision or re-assignment.

4.5 Education and Training

4.5.1 All successful professional organizations recognize the importance of continuing education and training. The Denver Police Department has long embraced "in-service" training and education as essential to its success as an organization. By providing officers with the knowledge, skills and abilities needed to effectively and safely perform their duties, the Department will ensure that its officers can provide effective, safe and ethical police services to the community.

4.5.2 Continuing education and training is intended to teach and develop new skills and knowledge, while reinforcing and strengthening knowledge and skills already learned. Officers, supervisors and command personnel are encouraged to avail themselves of the training opportunities afforded by the Department as well as outside sources.

4.5.3 In addition, Department managers and supervisors should always consider whether an officer is in need of any remedial training as the result of observations made by peer officers or supervisors or as the result of information obtained from the Personnel Assessment System. In cases where an officer is under investigation for misconduct or has been found to have committed misconduct, additional training, in addition to any possible imposition of discipline, should be considered. If the Department is committed to an officer's remaining on the job, supervisors have a responsibility to ensure that the officer receives whatever additional training is necessary to ensure he or she will serve as an effective member of the law enforcement community.

4.5.4 A menu of programs which may be considered for certain types of misconduct is included as Appendix E in this Handbook. Command and supervisory officers must be aware of these programs and make them available, when appropriate, to all officers.

4.6 Mentoring

4.6.1 Mentoring programs provide officers with role models who exemplify the highest level of integrity and competence. The Denver Police Department's mentoring process begins with the Police Training Officer (PTO) program for officers who have recently graduated from the police academy. Recent graduates are subject to close supervision by Police Training Officers who have been identified as having the skill and knowledge necessary to train new officers. The Police Training program is mandatory and may include officers who have completed the program but are temporarily reassigned for re-training.

4.6.2 The Department recognizes, however, that mentoring can be of great value to other officers as well. An effective mentoring program would team officers who are particularly successful in certain areas with other officers who could learn from them. Supervisors and Commanders should consider the value of one-on-one mentoring as they become more familiar with the specific strengths and weaknesses of individual officers and as they conduct their regular performance reviews. The mentoring process would be voluntary for both the involved officer and the mentor.

4.6.3 Mentoring is not discipline, nor is it part of the disciplinary process. Its effective practice has the potential of helping officers to avoid the disciplinary process.

4.7 Recognition of Positive Actions

4.7.1 The need for recognition of good work done by officers on an ongoing basis is crucial. Department and community acknowledgement of officers 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.

4.7.2 Personal recognition by peer officers, supervisory and command staff, and citizens is strongly encouraged to provide balance to the necessities of the disciplinary system. To accomplish that goal, efforts are being made to make it easier for the community and the Department to give positive recognition to officers in numerous locations throughout the City, on the Department web site and in the reports of both the Department and the Independent Monitor's Office. Informing the public and the Department when officers receive Citizens Appreciate Police, Top Cops, District and other awards, is a critical component in providing the community with a balanced view of the officers who serve the community.

5.0 Specific Notice Regarding Practices in Support of the Disciplinary System

5.1 Practices such as filtering, mediation, early intervention, remedial training, mentoring, and the like are means to affect the performance and conduct of officers apart from the imposition of disciplinary sanctions and to improve the efficiency and effectiveness of the disciplinary system. However, none of these is intended to relieve officers 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 officer or a particular disciplinary case does not create a defense to misconduct or constitute a mitigating circumstance.

6.0 Specific Notice Regarding the Ancillary Consequences of the Disciplinary System

6.1 Pursuant to Section 9.4.13 of the Denver City Charter, the disciplinary penalties that may be imposed on Department members are "reprimand, discharge, reduction in grade, fine and/or suspension." The Executive Director of Safety is responsible for imposing all disciplinary penalties except for reprimands, which may be issued by the Chief of Police. As a matter of practice, the Chief of Police remains primarily responsible for other internal practices, procedures and operational decisions within the Department subject to the approval of the Executive Director of Safety, as appropriate.

6.2 As a result, the Chief of Police 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 regarded as a part of any disciplinary sanction. 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 Chief of Police, the Executive Director of Safety or the Denver Civil Service Commission may establish policies and practices with regard to any of these. These practices do not constitute the imposition of discipline and should not be regarded as 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 officer disciplined. Understandably, that impact will vary from officer to officer based upon his/her personal circumstances. For example, a 10-day suspension imposed on a single officer with other sources of income may have less of an impact than the same 10-day suspension imposed on a married officer with three dependents and no other source of income. Similarly, the same suspension imposed on a Captain and a 1st grade police officer will amount to a greater loss of income to the Captain. Because of the endless variables that may exist, it should not be expected that a system of consistent discipline should reasonably take these kinds of differences into account. Therefore, 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.

6.5 In summary, officers should always bear in mind that the imposition of discipline may have ancillary consequences which result from the particular facts and circumstances of the violation and the personal circumstances of the officer being disciplined. Those consequences cannot be regarded as part of the disciplinary sanction. In attempting to treat officers in a consistent manner, these ancillary consequences must not play a part in the decision of whether a violation should be sustained or 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 which need to be made during the course of the disciplinary process. They include the following:

7.1.1 The viability of a complaint must be assessed and a determination made of how it will be handled.

7.1.2 Where appropriate, an investigation must be conducted to determine the facts of the case, the issues in dispute and what, if any, Department rule violations should be considered.

7.1.3 Upon review of the specifications to be considered, a determination must be made as to whether there is sufficient evidence to sustain a given specification or whether some other finding should be made.

7.1.4 If a specification is sustained, the appropriate disciplinary sanction must be determined.

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 as well as the general public.

8.2 Investigations must be fair, thorough, timely and in accordance with accepted Department policies and procedures. Investigations must be conducted with full regard for the Officers' Bill of Rights and all other rights and respect due to fellow officers. 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/sex (including pregnancy, childbirth, or caregiver status), sexual orientation, age, religion, political affiliation, physical or mental disability, military status, marital 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-Departmental personnel must also be truthful. A failure to do so will result, where appropriate, in a referral of the case to the appropriate prosecutor's office for consideration of criminal charges.

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. There is a perception that there have been, historically, inconsistencies in decision-making regarding whether violations should be sustained. Because of the multiple steps of review within the Department, the determination of whether a violation should be sustained must be addressed on multiple levels. Inconsistency in those determinations can create concerns about the fairness of decision-making. Such fairness can only be accomplished by Department-wide consistency at every level of review. Fairness can be viewed in two ways. First, it requires that Department rules, regulations, policies and procedures be applied equally to all officers, regardless of rank. Second, it requires that the same standards be used when any individual is reviewing evidence and information with regard to any allegation of misconduct.

9.2 To help ensure that all reviewers of discipline cases at every level of the Department are applying the same standards, the instructions detailed below (Section 10.0) must be followed by all persons involved in the review of allegations of misconduct and the determination of 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. This process is separate and distinct from any consideration of what disciplinary sanction, if any, is appropriate if it is decided 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. Evidence consists of witness statements, including those of subject officers, witness officers, and civilian witnesses. Evidence also includes documents, photographs, diagrams and facts which are part of the case file. All other items which are contained in the investigative file, including the complaint and the subject officer's disciplinary history, are also evidence in a disciplinary case.

10.3 The reviewer must consider only the evidence that is contained in the investigative file and any reasonable inferences to be drawn from that evidence. An inference is a deduction or a conclusion which reason and common sense lead the finder of fact to draw from other facts that have been proved.

10.4 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 law makes no distinction between direct and circumstantial evidence.

10.5 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.

10.6 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 statement has 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 which 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 officer, a witness officer, a complainant, a civilian witness, a supervisor or a command officer. The reviewer should not automatically consider any type of witness, such as a citizen or a subject/witness officer, to be more credible than another type of witness simply because that witness is or is not a police officer. Furthermore, he/she is not to afford any particular degree of credibility to a witness simply because of that witness' rank or grade.

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' 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 which 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' statements. He/she may also determine what weight, if any, to give to any witness' statements.

10.7 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.

10.8 The reviewer must review the policy, procedure, rule, regulation or directive alleged to be 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.

10.9 The Department always bears the burden of proving that a violation has been committed by an accused officer. In determining whether there is sufficient evidence to establish that a violation has occurred, the reviewer must apply the standard of proof known as the "preponderance of the evidence." To prove something by a "preponderance of the evidence" means to prove that it is more likely than not. Therefore, the Department has the burden of proving that the evidence establishes that it is more likely than not that the alleged violation was committed and that the accused officer committed it.

10.10 In determining whether the burden of proof of "preponderance of the evidence" has been met, reasonable care and caution should be used to consider all the evidence in the case and the weight that evidence should be afforded. The quantum of evidence that constitutes a preponderance must be sufficient to lead to the reasonable conclusion that the accused officer committed the violation which is being considered. A suspicion, belief or opinion not supported by the weight of the evidence is not sufficient.

10.11 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 <u>only</u> the evidence in the case. The finding must **not** be based on or be influenced by any of the following:

10.11.1 Guesses or speculation;

10.11.2 Facts not contained in the investigative file;

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

10.11.4 The reviewer's personal assessment of the subject officer'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;

10.11.5 The rank of the subject officer unless rank is an element of the alleged violation;

10.11.6 The anticipated or perceived effect which the finding may have on the subject officer, 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 Chief of Police/Executive Director of Safety such as secondary employment, assignment, appointment, promotion or the like; or

10.11.7 The anticipated or perceived effect which the finding may have on any witness or 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.

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.

10.12 If the evidence fails to establish, by a preponderance, that the subject officer 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 officer committed the violation in question, then the allegation must be sustained.

10.13 After reviewing all the evidence, the reviewer must make one and only one of the following findings for each of the specifications considered:

10.13.1 Unfounded: The investigation indicates that the subject officer's alleged actions relating to the Department policy, procedure, rule, regulation or directive in question did not occur.

10.13.2 Exonerated: The investigation indicates that the alleged actions of the subject officer were within the policies, procedures, rules, regulations and directives of the Department.

10.13.3 Not Sustained: There was insufficient evidence to either prove or disprove the allegation.

10.13.4 Sustained: The subject officer's actions were found, by a preponderance of the evidence, to have been in violation of the Department policy, procedure, rule, regulation, or directive in question.

10.14 Each specification of an alleged violation should be considered separately and a separate decision reached as to whether there is a preponderance of evidence establishing that the alleged violation occurred. The sustaining of any one specification does not compel the sustaining of other specifications.

10.15 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 carefully consider the recommendations and opinions of others but he/she 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 of the instructions given herein and a fair consideration of all the evidence presented.

10.16 As a finder of fact, the reviewer may be participating in an official disciplinary proceeding such as a Use of Force Review Board or Chief's Hearing where information, in addition to the investigative file, such as a statement by the subject officer, is presented for consideration. The reviewer may properly consider that additional information, assess its credibility, and afford it whatever weight he/she deems appropriate.

10.17 At each level of review, the reviewer must document his/her findings and the reasons/rationales for those findings in accordance with these Conduct Principles and Disciplinary Guidelines and other established Department policies and procedures.

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. This is a concept that must be consistently applied throughout the Department. The purposes of discipline must also be understood by all members of the Department, as well as 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 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 officer

11.3.2 To deter future misconduct by the disciplined officer

11.3.3 To impose an appropriate penalty on the disciplined officer, taking into account the nature and seriousness of the misconduct, any mitigating or aggravating factors, and the officer'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 of the Department

11.3.5 To provide notice of the 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 to include:

11.4.1 Ensuring the orderly functioning and operation of the Department and adherence to its established standards of conduct

11.4.2 Reinforcing Department values

11.4.3 Reinforcing training

11.4.4 Effectively managing risk and potential civil liability for officers, the Department, and the City

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 which 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 "damages" which may be available to an aggrieved party under the civil law. Similarly, disciplinary sanctions are not intended to function as "sentences" or "punishment" which may be available under the criminal law for officer misconduct that rises to the level of a provable criminal offense. It is not the function of the prosecutor's office, through the criminal justice system, to enforce the rules, regulations and

policies of the Police Department. Nor is it necessary that an officer be criminally convicted in order for the Department to discipline the officer for misconduct which 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 Chief of Police and the 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 Police 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 officers and the community of the likely sanction for a particular violation unless the particular facts and circumstances justify a different result; and

12.2.7 Provide a framework for consistent discipline based upon Department established standards applicable to all members of the Department.

12.3 In defining categories of conduct, deciding what Rules and Regulations (R&R's) 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, values 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. Consideration was also given to prior "similar" discipline cases, how the Department had previously handled them and the range of disciplinary sanctions which had been previously imposed.

12.4 The overall goals and principles contained in these Conduct Principles and Disciplinary Guidelines shall apply to all disciplinary recommendations and decisions by the Denver Police Department. However, the specific provisions of the Discipline Matrix shall not apply to those violations which are currently covered by rules and policies regarding scheduled discipline. These violations include:

12.4.1 OMS 103.02(5)(b) – Failure to Appear in Court (filed under RR-502)

12.4.2 OMS 120.01(3)(e) – Failure to Shoot for Efficiency

12.4.3 OMS 112.03(4) – Photo Radar and Photo Red Light

12.4.4 OMS 112.01(3)(c)(2) – Safety Restraining Devices

12.4.5 OMS 120.01(2)(d)(3) – Required Minimum Annual Continuing Education

12.4.6 OMS 120.01(2)(d)(2) – CEP Cancellation/CEP Failure to Attend

12.4.7 OMS 203.08(2)(d)(6) – Preventable Accidents (filed under RR-809)

12.4.8 OMS 501.03(2)(b) – Punctuality (filed under RR-125)

13.0 Categories of Conduct

13.1 There are six categories of conduct on the matrix. 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 F).

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

13.1.2 Category B – Conduct that has more than minimal negative impact on the operations or professional image of the Department; or that negatively impacts relationships with other officers, agencies or the public.

13.1.3 Category C – Conduct that has a pronounced negative impact on the operations or professional image of the Department; or on relationships with other officers, agencies, or the public.

13.1.4 Category D – Conduct that is substantially contrary to the values of the Department or that substantially interferes with its

mission, operations or professional image, or that involves a demonstrable serious risk to officer or public safety.

13.1.5 Category E – Conduct that involves the serious abuse or misuse of authority, unethical behavior, or an act that results in an actual serious and adverse impact on officer or public safety, or to the professionalism of the Department.

13.1.6 Category F – Any violation of law, rule or policy which: foreseeably results in death or serious bodily injury to another person; or constitutes a willful and wanton disregard of Department values; or involves any act which demonstrates a serious lack of the integrity, ethics or character related to an officer's fitness to hold the position of police officer; or involves egregious misconduct substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is to uphold the law; or involves any conduct which constitutes the failure to adhere to any contractual condition of employment or requirement of certification mandated by law.

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 here noted:

14.1.1 The individual Rules and Regulations have been placed into particular conduct categories (see Appendix F) 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, command officers, any reviewing board, the Chief of Police, the Executive Director of Safety, the Hearing Officers, and the Civil Service Commission 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, be reasonable under the circumstances and be 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-105, Conduct Prejudicial. Anyone reviewing such a case will need to analyze the factors noted below (Section 15.0) and consider the various

facts present in order to determine the most appropriate conduct category.

14.1.3 Certain Rules and Regulations could fit more than one but not all conduct categories. An example of this is RR-117, Disobedience of an Order. Any violation of that Rule has been determined to be at least a Conduct Category "C" but could fall into a higher category based upon the particular facts and circumstances. Again, anyone reviewing such a case will need to analyze the various factors noted below (Section 15.0) in order to determine whether the violation should fall into a category higher than "C".

14.1.4 No attempt has been made to categorize all sources of specifications of alleged misconduct such as Operations Manual sections, other policies and procedures, directives, special orders, training bulletins, or the like. As a general practice, violations of any of these are usually alleged as a violation of RR-102, which then references the particular Operations Manual section, directive, policy, etc. violated. Again, anyone reviewing misconduct based upon any of these will have to analyze the conduct based upon the factors outlined below (Section 15.0) in order to determine the appropriate conduct category.

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 mission, vision and values of the Department, including the Law Enforcement Code of Ethics?

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 officer or public safety, or a demonstrable serious risk to officer or public safety?

15.1.6 Did the violation result in actual injury to an officer or a member of the public? If so, what is the extent of the injury?

15.1.7 Does the misconduct involve unethical behavior or a serious abuse or misuse of authority?

15.1.8 Did the misconduct forseeably result in death or serious bodily injury?

15.1.9 Does the misconduct constitute a failure to adhere to any contractual condition of employment or requirement of certification mandated by law?

15.1.10 Is there a Rule and Regulation which has a pre-determined conduct category which addresses similar misconduct that gives any guidance?

15.1.11 Has there been a previous case decided after the implementation of these Conduct Principles and Disciplinary Guidelines that gives guidance to the appropriateness of the conduct category to be chosen?

15.2 In determining the conduct category, the reviewer must continually bear in mind that this analysis focuses on the nature of the misconduct and how it conforms to the specific definitions of conduct categories already established. It is not 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 should 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 Category, Violations and Discipline Level Assignments Table and the Penalty Table (Appendix F).

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 Example 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 level (levels 1-8) increases 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 (1–8), ranging from least serious to most serious; and

16.3.2 The penalties associated with that 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 F) identifies a "presumptive penalty" for each discipline level. The "presumptive penalty" is tied to the discipline level but will increase if an officer has prior sustained violations of the same or higher conduct category within the specified time frame. Only prior sustained violations occurring within the specified timeframe will be considered in the determination of whether the discipline level must be increased.

17.2 To achieve consistency, presumptive penalties are presumed to be the reasonable and appropriate penalties that should be given. It is only when mitigating or aggravating factors are established that a departure from the presumptive penalty may be justified. Even then, the penalty will remain within the penalty ranges established for that particular discipline level unless "special circumstances," as explained below (Section 25.0), exist. The factors or circumstances relied upon to find mitigation, aggravation, or "special circumstances," must be articulated and justified in writing.

17.3 A presumptive penalty has been established for each conduct category and each discipline level. That presumptive penalty is presumed to be the appropriate sanction and shall be imposed, absent specific articulable mitigating, aggravating or special circumstances overcoming the presumption and justifying a departure from that penalty.

18.0 Considering Prior Violations which Shall Increase Discipline Levels

18.1 Prior violations of an equal or greater conduct category raise discipline levels when subsequent violations are committed before the expiration of

the time limitations below. This is set out in the Category, Violations and Offense Assignments Table (Appendix F). All prior violations of an equal or greater conduct category committed before the date the Executive Director of Safety imposes discipline, or the Chief of Police issues a reprimand, for the current violation may be considered to raise disciplinary levels unless the limitation has been exceeded. The limitations 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 Limitation for Considering Prior Violations –The above limitations begin to run upon imposition of discipline by the Executive Director of Safety or the date of the issuance of a reprimand by the Chief of Police. The current violation must be committed before the limitation has been exceeded for the prior violation to be considered. However, where an incidence of misconduct involves multiple rule violations or multiple acts of related misconduct, the date the violation was committed shall be considered the date on which the earliest act of misconduct was committed. For example, where an alleged violation gives rise to an internal investigation and during the course of that investigation an officer intentionally gives a materially false statement in violation of RR-112.2, for the purpose of considering prior violations, the date the violation of RR-112.2 was committed shall be considered the date upon which the initial violation giving rise to the investigation was committed.

18.3 For violations within the applicable time period which occurred prior to the implementation of the discipline matrix, 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 which now could fall into more than one conduct category under the matrix, the analysis detailed in Section 15.0 above shall be used to determine the appropriate conduct category for the prior violation.

18.5 As indicated in Section 12.4 above, the discipline matrix does not apply to violations penalized under the Department's system of scheduled discipline. Therefore, those violations should not be considered as a

violation which would automatically increase the discipline level of the current violation. However, these violations may be considered as aggravating circumstances, if appropriate (See Sections 19.0, 21.0 and 22.0 below).

18.6 For the purpose of determining prior violations which 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.

18.7 It should be carefully noted that 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 increase the discipline level and the corresponding presumptive penalty. This increase in discipline is automatic. Prior violations that result in an increase in the discipline level are not to be considered as "aggravating factors or circumstances" as explained below (Section 19.0).

19.0 Consideration of Mitigating and Aggravating Circumstances

19.1 The presumptive penalty assigned to each discipline level may be increased or decreased, based upon mitigating or aggravating circumstances. The reviewer must take into account all of the circumstances of a case to determine whether the mitigated penalty, the presumptive penalty or the aggravated penalty should be imposed.

19.2 In determining mitigating and aggravating factors, the reviewer may look to the misconduct itself, the history of the officer involved in the misconduct or any other circumstance that might justify a departure from the presumptive penalty. 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 which 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 of disciplinary sanctions.

19.3 The mitigating and aggravating circumstances considered must be documented.

19.4 In determining mitigating and aggravating factors, 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 which 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. 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 (Section 25.0).

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

19.6.1 Willingness to accept responsibility and acknowledge wrong-doing;

19.6.2 Circumstances under which the rule was violated;

19.6.3 The culpable mental state of the officer 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 of 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 relative to the officer's years of service.

19.7 The above are intended only as a guide in determining mitigating factors. It is impossible to list all the circumstances which might be considered mitigating in a particular case. The question any reviewer should contemplate is: Are there any factors not already taken into consideration in the conduct category or the definition of the specific violation that might justify decreasing the disciplinary sanction below the presumptive penalty?

19.8 Aggravating circumstances may justify a greater penalty than the presumptive. However, the presence of aggravating circumstances does not automatically require the imposition of a penalty in the aggravated range. 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 (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 or an officer;

19.9.2 Endangerment to a member of the public or an officer;

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, excessive use of force or unlawful detention or arrest);

19.9.4 The supervisory or command rank of the officer who committed the violation (See 20.0 below);

19.9.5 The officer's prior disciplinary history (See 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 officer arising out of the underlying event;

19.9.10 Dishonesty on the part of the officer;

19.9.11 Prejudicial conduct regarding race, color, creed, national origin, ancestry, gender/sex (including pregnancy, childbirth, or caregiver status), sexual orientation, age, religion, political affiliation, physical or mental disability, military status, marital status, or other protected classifications;

19.9.12 Harassment or retaliatory conduct;

19.9.13 The culpable mental state of the officer in the commission of the violation; or

19.9.14 Unsatisfactory work history.

19.10 The above potential aggravators are intended as a guide only. It is impossible to list all the circumstances which might be considered aggravating in a particular case. The question any reviewer should contemplate is: Are there any factors that have not already been taken into consideration in the conduct category or the definition of the specific violation that might justify increasing the disciplinary sanction above the presumptive penalty?

20.0 Rank as an Aggravating Factor

20.1 The rank of an officer 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 an officer who committed a violation may be considered a factor in aggravation which 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 subordinate officers. Further, it is appropriate for the Department to expect that a supervisor or command officer should exercise even greater restraint and circumspection than a subordinate officer. 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. The question any reviewer must consider is whether the rank of the officer sufficiently justifies any increase in the disciplinary sanction over that which would be imposed on a non-supervising or non-command officer for similar misconduct, recognizing that the goal of this discipline system is to treat all officers, regardless of rank, similarly.

20.4 At the same time, a supervisor or command officer's prior complimentary history, including awards, commendations and 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 an Aggravating Factor

21.1 An officer's prior disciplinary history not already used to increase the discipline level may be considered in determining whether the disciplinary sanction should be increased from the presumptive penalty to the aggravated range.

21.2 As with any other potentially aggravating factor, the reviewer must determine the weight or significance of the history. Factors which 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 continuation or pattern of the same or similar misconduct; and

21.2.6 Whether the prior history demonstrates continuous 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/minor, evidences repeat, continual or pattern misconduct.

22.0 Weighing Mitigating and Aggravating Factors

22.1 As noted earlier, the presence of possible mitigating or aggravating factors do 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 well justify the imposition of the presumptive penalty.

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 values, 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 Explanation for Definitive Ranges of Mitigated/Aggravated Penalties

23.1 In this discipline system, repeated emphasis has been placed on the need to achieve consistency and for all officers to have a clear understanding of the consequences of their misconduct and the likely sanction for that misconduct.

23.2 The creation of a disciplinary matrix which clearly defines the discipline that will result from specific misconduct has been shown to have a positive impact on establishing and maintaining consistency, and reasonably managing supervisory discretion. Additionally, a genuinely positive impact on officers can result from a clear understanding of the potential

consequences of misconduct and demonstrable consistency in the penalties given to all officers, regardless of rank, for that misconduct.

23.3 It is important that officers and citizens can feel confident that they know the likely disciplinary consequences of a sustained violation. As a result, the matrix has been intentionally created with definitive presumptive penalties. By the same token, it is also important that the matrix incorporate some flexibility to account for unexpected considerations. For these reasons, the matrix allows for definitive mitigated and aggravated ranges of penalties in order to better ensure consistency among all officers similarly situated, yet allow for varying degrees of mitigation and aggravation within a set range. Therefore, if the determination is made that the conduct violation is either appropriately mitigated or aggravated, the reviewer is allowed to assign a mitigated or aggravated penalty within the ranges prescribed.

23.4 When compared with prior discipline cases in which the penalty imposed was within the same mitigated or aggravated range as the present case, any mitigated or aggravated penalty within these definitive ranges shall be deemed to be consistent discipline as required by City Charter and within a reasonable range of discipline imposed in similar circumstances as referenced in Civil Service Rules.

24.0 Policy of Maximum Suspension of 90 Days

24.1 The Executive Director of Safety and Chief of Police have instituted a policy of a 90-day maximum suspension in cases where lengthy suspension as opposed to termination 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 officer, and the community are all sufficiently served by reasonable limits on the length of suspensions.

25.0 Special Circumstances

25.1 It should be recognized that any matrix system can only be designed for the large majority of cases and that on limited occasions there will be extraordinary circumstances which would 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 Chief of Police and the Executive Director of Safety and is reasonable and necessary to avoid injustice. 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 unjust 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 the questions of reduction in rank or grade, or

25.2.4 Cases involving termination where termination is not the presumptive or aggravated penalty indicated by the matrix.

25.3 Extraordinary Mitigation

25.3.1 In the event that a command officer, any reviewing Board, the Chief of Police or the Executive Director of Safety believe 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 officer such as his/her performance, disciplinary history, etc. This could include a factor in mitigation that is so extraordinary that the mitigated penalty called for in the matrix would be unjust or would not reflect the totality of the circumstances.

25.3.3 The reasons for departing downward from the minimum penalty called for in the matrix as well as the basis for determining the particular penalty must be documented and explained.

25.4 Extraordinary Aggravation

25.4.1 In the event that a command officer, any reviewing Board, the Chief of Police or the Executive Director of Safety believe 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 days;

25.4.1.2 Reduction in rank or grade; or

25.4.1.3 Termination, regardless of whether termination is the presumptive or aggravated penalty specified in the matrix for the current violation.

25.4.2 In order to recommend or impose a penalty greater than the maximum penalty called for in the matrix, it must be concluded that the matrix fails to appropriately address the conduct or the officer specific to the case. This could include a factor in aggravation that is so extraordinary that the maximum penalty called for in the matrix would be inadequate to effect the

purposes of discipline or to reflect the gravity of the circumstances even if the maximum penalty were to be imposed.

25.4.3 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.

25.4.4 Listed below are factors to consider in determining whether extraordinary aggravation exists that would warrant the imposition of discipline over and above what is anticipated by the matrix and could result in a penalty up to and including termination, even above and beyond the presumptive or aggravated penalty range of the matrix for the current violation. These factors include, but are not limited to:

25.4.4.1 Commission of a series of acts which constitute a course of conduct characterized by a continued inability or unwillingness on the part of the officer to conform to expected standards of conduct;

25.4.4.2 Commission of an act or acts which 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;

25.4.4.3 Commission of an act or acts which call into serious question the officer's trustworthiness and/or integrity so as to interfere with the continued performance of his or her assigned duties and responsibilities, or which demonstrate a serious lack of the ethics, character or judgment necessary to hold the position of police officer;

25.4.4.4 Commission of an act or acts which 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

25.4.4.5 Creation of a serious legal or financial risk for the Department or the City arising from the misconduct of an officer or the retention of that officer.

25.5 Reduction in Rank or Grade

25.5.1 Reduction in rank of an officer may occur if, after considering all of the facts and circumstances surrounding an incident, it is determined that a supervisor or command officer lacks the ability, willingness or worthiness to perform in the current rank.

Reduction in rank reflects the determination that an officer has demonstrated by his/her misconduct that he/she is unfit to fulfill the responsibilities and duties required for his or her current position at the specific rank.

25.5.2 In making a decision to recommend or impose a reduction in rank or grade, the reviewer should consider the effect on the organization of maintaining the officer in a supervisory or command position. If the commission of the violation prior to attaining the current rank would have raised substantial questions as to the officer's fitness to hold that rank in the first place, a reduction in rank may be considered.

25.5.3 The importance of the ability to lead by example, to possess and exhibit integrity, and to perform the duties and responsibilities of the rank in a credible and professional manner cannot be minimized. Supervisory and command officers must maintain a culture in which subordinate officers 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 A reduction in rank may be imposed in conjunction with or in lieu of other appropriate disciplinary sanctions.

25.5.5 Reductions in grade within the rank of "police officer" (PO1 through PO4) are a legitimate and allowed disciplinary sanction under the City Charter. However, such reductions in grade have not historically been imposed by the Department. Within the rank of "police officer", reprimands, fined time (as opposed to monetary fines), suspensions and terminations rather than reductions in grade have been deemed adequate to achieve the purposes of effective discipline. These practices will continue unless or until a change in practices is deemed appropriate and prior notice is given to all members of the Department.

25.5.6 As used in these Conduct Principles and Disciplinary Guidelines, the term "reduction in Rank or Grade" is intended to apply only to reductions which affect rank or grade within the Classified Service (Police Officer 1 through Police Officer 4, Sergeant, Lieutenant and Captain). Positions outside of the Classified Service based upon appointments made by the Chief of Police (Detective, Technician, Corporal, Commander, Division Chief and Deputy Chief) are subject to revocation and re-assignment at the discretion of the Chief of Police, with approval of the Executive Director of Safety, as appropriate.

Re-assignment from any appointed position is not considered a disciplinary sanction as defined by the City Charter (See Section 6.0).

25.6 Termination

25.6.1 It must be universally recognized that certain acts of misconduct are so serious that the appropriate penalty is discharge. This may result from the severity of the act or acts or from the damage the misconduct causes to the Department or public. In other circumstances, discharge may be an option when there have been repeated acts of misconduct. Repeated misconduct may result in termination when it is clear that lesser corrective or punitive actions are not likely to be effective or would only serve to depreciate the seriousness of the offense. Repeated acts of misconduct may also result in termination 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 Discharge, while a disciplinary option to be used only after careful deliberation, provides a necessary management tool for dealing with the most serious acts of officer misconduct. Certain acts of misconduct are so egregious that discharge is necessary. Discharge may be necessary to both punish the officer and protect the public and the Department from the possibility of future egregious misconduct. In the same vein, certain acts of misconduct require the penalty of discharge because they are indicative of the officer's inability to continue serving in a position of trust. Discharge may also be necessary because the commission of certain acts of misconduct has 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 officer would constitute deliberate indifference to the duty of the Department to protect the public.

25.6.3 As noted above, the factors listed with regard to extraordinary aggravation apply equally to the issue of whether discharge may be appropriate (See Section 25.4).

25.7 <u>Use of Prior Disciplinary History with respect to Special Circumstances</u> – The entirety of the officer's prior disciplinary history may be considered in determining whether special circumstances exist justifying a penalty in excess of that allowed under the matrix up to and including reduction in rank or termination.

25.8 <u>Special Circumstances Relating to Progressive Discipline</u> – The disciplinary matrix system is intended to be a progressive discipline

system in which officers who engage in multiple incidents of misconduct are subject to increased disciplinary sanctions. Additionally, rules violations resulting from more egregious misconduct should yield more severe disciplinary sanctions than rules violations resulting from less egregious misconduct. However, if an officer has multiple, prior, sustained violations for R&Rs with Conduct Categories that are less than or equal to the Conduct Category for the current violation, application of the current sustained R&R to the disciplinary matrix process can, in some circumstances, result in a lower disciplinary sanction than if an R&R with a lower Conduct Category had been sustained.[1] To assure the imposition of an appropriate disciplinary sanction, whenever application of the current sustained R&R would result in a lower disciplinary sanction than application of an R&R with a lower Conduct Category (had the lower R&R been sustained), the Chief of Police or Executive Director of Safety (or their designees) should determine that Special Circumstances exist which require a penalty that results in appropriate progressive discipline. Under such circumstance, the Chief or Executive Director should impose a penalty equal to or greater than the penalty resulting from application of the R&R with the lower Conduct Category.

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, the Weight to be Given to Mitigating and Aggravating Circumstances or in the 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 which 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, values, operation, image or professional standards of the Department?

[1] For example, if an officer has two prior sustained violations for R&Rs with a Conduct Category of D and the current sustained R&R falls into Conduct Category E, the aggravated penalty for a Category E violation would be within the range of a 38-42 day suspension (Discipline Level 6). On the other hand, if that officer had two prior sustained violations with a Conduct Category of D but the current sustained R&R falls into Conduct Category D, the presumptive penalty for a third Category D violation would be a 60-day suspension (Discipline Level 7). Thus, an officer could receive a less severe disciplinary sanction for more egregious misconduct (38-42 day suspension for a Conduct Category E violation) than for less egregious misconduct (60-day suspension for a Conduct Category D violation). In such circumstance the Executive Director of Safety should impose a suspension of 60 days or greater, demotion if appropriate, or termination.

26.2 When assessing the "harm" or "risk of harm" which arises from a particular violation, it should be understood that "harm" is not limited to physical injury. The term "harm" is intended to apply to any demonstrable wrong, prejudice, damage, injury or negative effect/impact which arises from the violation.

26.3 In certain instances, conduct is categorized based, in part, upon the foreseeable harm or injury which arises from the conduct (For example, conduct which 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 officer accountable for the result.

26.4 In determining the causal connection between an officer's violation and the result of the officer's conduct, the violation may be based upon an officer's act (for example, inappropriate force which causes serious bodily injury) or an officer's omission or failure to act (for example, an intentional violation of RR-130.2, Failure to Aid or Protect Fellow Officers, which results in serious bodily injury or death to the fellow officer).

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 officer at the time of the violation. In determining foreseeability, the reviewer must look to all the facts and circumstances known or which reasonably should have been known to the officer at the time of the violation.

27.0 Disciplinary Recommendations made to the Chief of Police and the Executive Director of Safety

27.1 In accordance with the provisions of the City Charter, the Executive Director of Safety is charged with the responsibility of ordering all discipline issued to uniformed members of the Denver Police Department greater than a reprimand. Consequently, all input into the issue of whether or not an officer has violated a Departmental rule or policy and, if so, what the appropriate sanction should be are in the form of recommendations to the Chief of Police/Executive Director of Safety. Likewise, any findings made by the Chief of Police with regard to those same issues are also in the form of recommendations to the Executive Director of Safety.

27.2 The Executive Director of Safety considers the recommendations made to him by the Chief of Police and any commanding officers but is not bound by them. As provided by City Charter, the Executive Director may approve, modify or disapprove any recommendation made to him/her. No provision of the City Charter or Civil Service Commission Rules requires the Executive Director to follow the recommendations or to give "due

weight" to them. The Executive Director's failure to follow any particular recommendation is not grounds for appeal.

27.3 Upon appeal, the issues to be determined, based upon grounds enumerated in City Charter provisions and Civil Service Commission Rules, are whether the Executive Director of Safety was justified in imposing the disciplinary sanctions that were ordered.

27.4 Disciplinary recommendations and their underlying rationale are considered part of the Executive Director of Safety's deliberative process. Therefore, the Department may develop policies and procedures to limit access to, keep confidential, or otherwise protect recommendations/ rationales from public disclosure except as required by law or to the extent necessary to facilitate decision-making at various stages of the disciplinary process.

28.0 Deleted [04/2012]

29.0 Recommendations from the Use of Force Review Board

29.1 The Use of Force Review Board is designed to allow for citizen participation in the Department's use of force and discipline review processes. Consequently, the Department has a particularly strong interest in keeping the deliberation processes of this board confidential.

29.2 The Use of Force Review Board is subject to the provisions of these Conduct Principles and Disciplinary Guidelines, including the discipline matrix. In reviewing any case, making any findings as to whether a Departmental rule or policy has been violated or making disciplinary recommendations, all participants in this board must follow the guidelines, principles and procedures outlined herein, including the requirement of written justification.

29.3 The Department shall establish procedures to ensure the confidentiality of the deliberations of this Board. As with all other disciplinary recommendations, the recommendations of the Use of Force Review Board and their underlying rationale are considered a part of the Executive Director of Safety's deliberative process. Therefore, the Department may develop policies and procedures to limit access to, keep confidential, or otherwise protect these recommendations/rationales from public disclosure except as required by law or to the extent necessary to facilitate decision-making at various stages of the disciplinary process.

30.0 The Role of the Chief of Police in the Disciplinary Process

30.1 The City Charter provides that it is the responsibility of the Chief of Police to initiate disciplinary action against members of the Police Department by a written order submitted to the Executive Director of Safety for approval.

30.2 Prior to submitting that order, the Chief must provide written notice to the subject officer advising him/her of the charges, an explanation of the evidence supporting those charges and an opportunity to respond to the charges at a pre-disciplinary meeting (Chief's Hearing).

30.3 In reviewing any disciplinary recommendation(s) made to him/her and in making any recommendation to the Executive Director of Safety, the Chief of Police is guided by the provisions of the Charter, the Rules of the Civil Service Commission, the Rules and Regulations and policies and procedures of the Department, and all other laws relevant to the imposition of discipline.

30.4 As such, the Chief of Police shall be guided by these Conduct Principles and Disciplinary Guidelines, including the discipline matrix, as is the Executive Director of Safety and all other persons responsible for reviewing allegations of misconduct.

30.5 The Chief shall make findings as to each specification considered and shall determine the discipline he/she believes to be appropriate by applying the principles, guidelines and procedures detailed herein.

30.6 The Chief's recommendation to the Executive Director of Safety shall contain a written summary of his/her findings, the basis for any disciplinary sanction recommended, and an explanation of how the sanction was determined. This summary shall include the facts relied upon, the findings as to each specification, a determination of the appropriate conduct categories and discipline levels, the officer's commendatory and/or disciplinary history, any mitigating or aggravating circumstances considered, and any factors which justify the decision to impose a penalty other than the presumptive or a penalty "outside the matrix" as a result of special circumstances. The report shall also include a statement that the officer was given oral or written notice of the charges against him/her, an explanation of the evidence supporting those charges, and an opportunity to respond to those charges prior to the imposition of discipline.

30.7 In making any recommendation of discipline to the Executive Director of Safety, the Chief of Police shall consider the disciplinary principles detailed in Section 31.14.

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

31.1 Authority of the Executive Director of Safety – By the authority vested in the Office by the City Charter, the Executive Director is responsible for ordering all discipline, with the exception of reprimands, in the Denver Police Department. In doing so, the Executive Director is guided by the provisions of the Charter, the Rules of the Civil Service Commission, the Rules and Regulations and policies and procedures of the Denver Police Department and all other laws relevant to the imposition of discipline.

31.2 The Executive Director of Safety is also empowered with reasonable discretion in exercising his/her authority to administer the Department of Safety.

31.3 Review of Investigative File – The Executive Director of Safety reviews the pre-disciplinary letter containing a summary of the facts, the officer's disciplinary and commendation history, the audio recording of the pre-disciplinary hearing held by the Chief of Police, and a listing of the violations considered. 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 also contains recommendations, if any, from commanding officer(s) and, if applicable, any board that may have been involved in the review of the case. The Executive Director considers the recommendations of the Chief of Police as well as any other recommendations, but is not bound by them. In the exercise of reasonable discretion, the Executive Director may give them any weight he/she believes they should be accorded.

31.4 In determining his/her findings as to whether or not any of the violations should be sustained, the Executive Director of Safety must follow the same rules and instructions followed by all other reviewers.

31.5 If the Executive Director of Safety finds that there are insufficient facts or information to make a final determination of appropriate discipline, the Executive Director may return the case for further investigation or otherwise order that the facts or information be provided.

31.6 Determining the Appropriate Discipline – In sustaining any violations or 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 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 for 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, he/she shall consider whether there are any special circumstances that justify reduction in grade or termination, where termination is not the presumptive or aggravated penalty listed by the matrix.

31.7 Penalty as to Each Specification Sustained – The Executive Director of Safety shall impose a separate penalty for each violation sustained. For

each sustained violation the presumptive penalty is presumed to be the appropriate penalty absent articulable factors which overcome the presumption. As a general rule, penalties shall be imposed consecutively, except as noted in Sections 31.8, 31.9 or 31.10. However, where suspension is determined to be the most appropriate penalty, the total suspension shall not exceed 90 days.

31.8 Avoiding the Impact of "Stacking" – A balanced disciplinary system should impose fair and appropriate discipline based upon the nature of the misconduct and not simply upon the number of specifications that could arguably be charged and sustained. Discipline should be based upon the most specific violation(s) possible to adequately address the misconduct. In fashioning a final order of discipline in cases involving multiple specifications, the Executive Director of Safety must ensure that each specification addresses separate and distinct conduct or addresses a different aspect of or a different harm arising from the same conduct. Specifications which are only alternate theories of addressing the same conduct should not operate so as to unfairly increase the penalty. If multiple violations are sustained which are merely alternative theories of addressing the same conduct, the sustained violations should run concurrently with the most serious violation. Only if separate and distinct misconduct or different aspects of, or different harm arising from, the same misconduct are found, should penalties run consecutively.

31.9 Addressing Unfair Impact in Disciplinary Sanctions – To avoid unfair impact on the subject officer, the Executive Director of Safety may elect to choose among the specifications sustained, to impose suspension or fine concurrent to each other, to hold penalties or portions of penalties in abeyance, or to otherwise fashion a disciplinary sanction which more appropriately addresses the nature and totality of the misconduct.

31.10 Other Uses of Concurrent Discipline – The Executive Director of Safety, in the reasonable exercise of his/her discretion, may elect to impose concurrent discipline or hold penalties in abeyance in situations which further the interests of fairness and reasonableness. For example, where an officer is sustained for serious violations which are the core issue or essence of the misconduct and which subject him/her to a lengthy suspension, then any other penalty for a violation arising out of the same episode may be imposed concurrently.

31.11 Maximum Suspension of 90 Days

31.11.1 Where the application of the matrix or any of the principles and guidelines supporting it results in a suspension in excess of 90 days and termination or reduction in rank is not otherwise appropriate, the Executive Director of Safety shall fashion the penalty so as to not exceed a 90-day suspension. While the Executive Director may order all suspended days indicated by

the matrix for each specification, he/she may impose the suspensions concurrently or suspend the execution of the order for that portion of the suspension which exceeds 90 days.

31.12 Viewing Misconduct in Its Entirety – The Executive Director of Safety 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 days, a reduction in rank, or termination.

31.13 Executive Director's Final Order of Discipline

31.13.1 The Executive Director of Safety's Final Order of Discipline shall contain a summary of the facts relied upon in reaching his/her decision, the mitigating/aggravating/special circumstances considered, the officer's disciplinary and commendation history, and an explanation of how the final discipline sanction was determined.

31.13.2 A copy of the Executive Director's Final Order of Discipline shall be maintained pursuant to established Department policy

31.14 Imposition of Discipline which is Not Inconsistent with Others in Similar Circumstances – While these Conduct Principles and Disciplinary Guidelines were specifically designed to better accomplish consistency in discipline, the Executive Director of Safety, nonetheless, should consider whether the discipline imposed in any case is "not inconsistent" with discipline imposed on others in similar circumstances. A determination of whether "similar circumstances" exist shall be based upon an assessment of the relative degree to which the present case and any prior cases contain the following factors:

31.14.1 Similar factual situations

31.14.2 Similar disciplinary histories

31.14.3 The same or similar facts in aggravation and/or mitigation

31.14.4 The same or similar rule violations

31.14.5 The application of the same or similar disciplinary policies, principles, disciplinary matrix and/or guidelines

31.14.6 Notice to members of the Department of any change in the disciplinary policies, principles, disciplinary matrix or guidelines

For discipline to be considered "inconsistent," it must be outside a reasonable range of discipline imposed in similar circumstances.

32.0 The Role of the Independent Monitor

32.1 The Office of the Independent Monitor (OIM) was created by City Ordinance to provide for 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.

32.2 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 Director of Corrections and the Executive Director of Safety regarding administrative actions, including possible discipline for such uniformed personnel; and (3) making recommendations regarding broader policy and training issues.

32.3 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 can file complaints and commendations through the OIM. The OIM refers these complaints and commendations, as appropriate, to the Internal Affairs Division (IAD) and to Department supervisors. Once complaints are received, the OIM works with IAD command staff to ensure timely and thorough formal investigations by engaging in a triage process. Complaints that do not require a formal investigation are filtered out of the traditional IAD process by declining complaints that do not need further investigation, assigning complaints to the Monitor's citizen-police mediation program and assigning complaints to be handled informally (without findings or the imposition of discipline).

32.4 The OIM actively monitors some IAD investigations and reviews all formal investigations to ensure they are thorough and objective. At the conclusion of the Command Review process, the OIM reviews all findings and disciplinary recommendations for reasonableness. Subsequently, the OIM makes recommendations to the Chief of Police and the Executive Director of Safety regarding the reasonableness of disciplinary recommendations.

32.5 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 Use-of-Force Board proceedings and deliberations. The deliberations of those boards are used by the OIM to evaluate the appropriateness of any findings and disciplinary recommendations.

32.6 The OIM issues quarterly discipline reports, which are published on its website, summarizing all disciplinary actions taken by the Department in the prior quarter. The OIM also issues an Annual Report (in March of each year) which provides detail about the Department's complaint handling and disciplinary processes.

32.7 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 may consider, but is not bound by, any recommendations made by the OIM.

33.0 Department Sources of Disciplinary Specifications

33.1 Specifications are in essence "charges" brought against subject officers as notice of the specific violation alleged. Throughout these Conduct Principles and Disciplinary Guidelines, sources of disciplinary specifications have been variously referred to as Rules and Regulations, directives, policies, procedures, Operations Manual sections 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 Departmental source upon which specifications may be based, such as the violation of a Mayor's Executive Order.

34.0 Application Considerations Regarding Certain Violations

34.1 Conduct involving Untruthfulness, Conduct Prohibited by Law, Use of Inappropriate Force, Sexual Misconduct, Conduct Prejudicial, Careless Handling of Firearms, Driving Violations Resulting in Injury or Death and Soliciting Preferential Treatment have been identified as violations which may require special consideration in applying the matrix and the guidelines and principles contained herein. These rules and regulations are discussed in Appendix D (Application Considerations Regarding Certain Violations).

34.2 Certain additional definitions to include Bodily Injury and Serious Bodily Injury are also contained in Appendix D.

34.3 Each individual officer and all persons who review/recommend penalties on any case shall consult Appendix D for a better understanding of the issues surrounding the specific violations contained therein.

35.0 Negotiated Settlement of Disciplinary Actions

35.1 The Department and the Executive Director of Safety recognize that, notwith-standing the consistency which is to be achieved by the application of the disciplinary matrix, circumstances may arise which necessitate meaningful settlement discussions between the officer, the Department, and the Executive Director of Safety. Therefore, the Executive Director of Safety or the Chief of Police or his/her designee with the approval of the Executive Director of Safety, may engage in settlement discussions with the subject officer. These discussions may focus either on the specific violation(s) to be charged and/or the discipline to be imposed. Nonetheless, officers should understand that settlement

negotiations are not a matter of right and refusal by the Department or the Executive Director of Safety to enter into settlement discussions or to reach a settlement agreement cannot be a basis of any claim of inconsistent treatment.

35.2 Settlement, while encouraged in appropriate cases, should occur only for legitimate purposes and not in an effort to circumvent the application of the matrix or the purposes and goals of these Conduct Principles and Disciplinary Guidelines. All settlement agreements must be approved by the Executive Director of Safety.

35.3 Any settlement which is achieved is intended to be unique to the circumstances involved and is not to be used in the evaluation of other disciplinary actions or in the determination of whether discipline in a subsequent case is "inconsistent with discipline received by other members of the Department under similar circumstances" as referenced in the City Charter and Civil Service Rules.

36.0 Establishment of an Enhanced Discipline Database

36.1 The Department maintains data related to the imposition of discipline in its CUFFS II database.

36.2 This database shall be enhanced to allow for research of the Executive Director's final orders of discipline for all violations committed after the effective date of the implementation of these Conduct Principles and Disciplinary Guidelines.

36.3 The Department shall restrict access to this enhanced database, except as provided by law.

37.0 Establishment of the Executive Director of Safety's Discipline Advisory Group Standing Committee

37.1 The Executive Director of Safety shall establish a Standing Committee to review and suggest changes, where appropriate, to these Conduct Principles and Disciplinary Guidelines and other Departmental policies and procedures related to discipline.

37.2 The Standing Committee shall be composed of a cross section of Department personnel, including representatives of the bargaining agent as well as persons outside the Department, as referenced in the Denver Police Department Operations Manual, and shall meet on a regularly established basis.

38.0 Application of these Conduct Principles and Disciplinary Guidelines

38.1 The provisions outlined herein shall apply to all alleged violations of Department rules, policies, etc. committed on or after the announced

implementation date of these Conduct Principles and Disciplinary Guidelines.

38.2 The implementation date will be announced by the Chief of Police, with the approval of the Executive Director of Safety after a reasonable period of training and notice to all members of the Department.

38.3 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.

38.4 In cases where an officer has more than one pending discipline case, the case that was first reported to Internal Affairs will be considered the first case for purposes of calculation of discipline.

39.0 The Vital Role of All Persons Involved in the Discipline Process

39.1 In order to ensure an effective discipline system consistent with the stated goals, purposes and policies of these Conduct Principles and Disciplinary Guidelines, all persons involved in the investigation and review of allegations of misconduct are obligated to conscientiously apply the principles and guidelines contained herein and to judiciously follow the procedures outlined. No system of discipline can be perceived as fair, nor can it succeed in promoting respect and trust within the Department or with the community, without such a commitment.

39.2 All persons who are involved in the investigation and the 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, are obligated to keep disciplinary deliberations, recommendations, and rationales confidential except where:

(a) disclosure is necessary for the administration of the disciplinary process;

(b) approved by the Chief of Police or the Executive Director of Safety;

(c) in accordance with established Department policy and procedure; or

(d) required by the rules of the Civil Service Commission, the ordinances of the City and County of Denver, or any applicable state or federal laws.

Appendix A – Department Mission, Vision and Values

DENVER POLICE DEPARTMENT

MISSION

IN PARTNERSHIP WITH THE COMMUNITY, WE ENDEAVOR TO OPERATE A POLICE AGENCY WITH A FOCUS ON PREVENTING CRIME IN A RESPECTFUL MANNER, DEMONSTRATING THAT EVERYONE MATTERS

VISION

THE DEPARTMENT, IN PARTNERSHIP WITH THE COMMUNITY, WILL ENDEAVOR TO ACHIEVE OUR MISSION BY:

- FOCUSING ON THE PREVENTION OF CRIME AND SAFETY
- ADOPTING A DEPARTMENT CULTURE THAT IS CONSISTENT WITH COMMUNITY VALUES
- COMBINING BOTH EFFICIENCY AND EFFECTIVENESS, WHILE LEVERAGING TECHNOLOGIES THAT ENHANCE POLICING OPERATIONS

VALUES

IN AN EVER-CHANGING WORLD, CORE VALUES ARE CONSTANT, THEY ARE THE FUNDAMENTAL BELIEFS OF A PERSON. CORE VALUES ARE NOT DESCRIPTIONS OF THE WORK WE DO OR THE STRATEGIES WE EMPLOY TO ACCOMPLISH OUR MISSION. THESE VALUES UNDERLIE OUR WORK, HOW WE INTERACT WITH EACH OTHER AND MEMBERS OF OUR COMMUNITY, AND FORM THE BASIS OF OUR DECISION MAKING. THESE THREE BELIEFS AND VALUES GUIDE AND INSPIRE US IN ALL WE SAY AND DO; WE WILL CONTINUALLY INTERNALIZE AND MODEL THESE CORE VALUES:

- **INTEGRITY**: HONEST AND ETHICAL BEHAVIOR IN ALL WE DO, OUR ACTIONS WILL MATCH OUR WORDS.
- **COURAGE**: SELFLESS DEVOTION TO DUTY; TAKING ACTION IN THE FACE OF DANGER AND HOLDING OURSELVES AND OUR PEERS TO THE HIGHEST ETHICAL STANDARDS.
- **SERVICE**: PROVIDING RESPECTFUL POLICE SERVICES TO ALL, REALIZING THAT WE ACHIEVE MORE THROUGH PARTNERSHIPS. OUR MOTTO "TO SERVE AND TO PROTECT" IS NOT JUST A SLOGAN – IT IS OUR WAY OF LIFE.

OUR AGENCY'S GUIDING PRINCIPLES ARE THE STRATEGIES THAT WE APPLY TO ACCOMPLISH OUR MISSION. THEY DESCRIBE THE MANNER IN WHICH OUR ORGANIZATION ACCOMPLISHES ITS MISSION. THESE TWO GUIDING PRINCIPLES ARE HOW WE MEET THE DEMANDS OF OUR MISSION:

- **INNOVATION**: INNOVATION IS ENCOURAGED TO CREATE A LEARNING ORGANIZATION THAT WILL GROW AND DEVELOP NEW AND INNOVATIVE PRACTICES TO ACCOMPLISH OUR MISSION.
- **TEAMWORK**: TEAMWORK IS FOSTERED IN ALL AREAS. WE BELIEVE THAT SOLUTIONS TO CRIME PROBLEMS COME FROM INSIDE AND OUTSIDE OF OUR ORGANIZATION. ESTABLISHING A VARIETY OF PARTNERSHIPS IS VITAL TO THE ACCOMPLISHMENT OF OUR MISSION.

Appendix B – Law Enforcement Code of Ethics

LAW ENFORCEMENT
CODE OF ETHICS

As a Law Enforcement Officer, my fundamental duty is to serve mankind, to safeguard lives and property, to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my Department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

Appendix C – Comment on Department Values and the Law Enforcement Code of Ethics

The Department's Mission, Vision, and Values

All Departmental policies, practices, and decisions, including those involving discipline, should be rooted in the Department's Vision and Values, and designed to accomplish its stated mission. Therefore, the following is a discussion of how the Department's Mission Statement, Vision and Values were developed and how they relate to discipline. It is included as an important part of this handbook.

In 2003, the Denver Police Department undertook a review of its internal philosophies and policies with the intent of creating a substantial, action oriented strategic plan.

As a prelude to the creation of this strategic plan, the Department researched mandates from Department of Justice consent decrees and memoranda of understanding from jurisdictions all over the country. Also reviewed were recommendations from the Department of Justice's "Principles for Promoting Police Integrity" and a study from the University of Maryland called "Preventing Crime: What Works, What Doesn't, What's Promising."

Best practices were researched through the International Association of Chiefs of Police (IACP) and 26 major U.S. cities. Included in this research were the best practices in the areas of citizen complaint investigations, early warning systems, citizen review, use of force, in-custody deaths, mentally disabled individuals, crisis intervention teams, pursuits, citizen injuries, sexual harassment, discrimination, gangs, crime analysis, accountability, civil enforcement, gun violence, crime reduction, performance assessments, and crime prevention.

The Department also retained Joseph Brann, formerly the Director of the Office of Community Oriented Policing Services (COPS Office). Mr. Brann worked with a team of law enforcement professionals to conduct a top to bottom organizational assessment of the Department. The Department assembled the fruits of its research, the Brann report, and the Denver City Council Law Enforcement 2000 Committee's study of the Department and created a comprehensive strategic plan to guide its mission for the next several years.

As part of this historical review, the Department also reviewed prior compilations pertaining to Departmental values, mission, goal and vision statements, purposes, and philosophies. Among those historical materials were the Law Enforcement Code of Ethics, which the Department adopted in April of 1999, and early discussions of the Department's philosophies and goals.

The overall review focused on providing a clear, direct statement of the principles and vision which should guide the Department and its officers. This review was also seen as a necessary foundation for establishing the disciplinary priorities of the Department. The process began with the creation of a clear statement of the Department's mission and how that mission could be accomplished. The interaction of the community and the Department was essential to carrying out the mission - this was described as the vision of the Department. Of paramount importance was the need to acknowledge the core values to which every officer of the Department must be fully committed.

The result of this extensive undertaking was the creation of the Department's Strategic Plan and the adoption of the Department's Mission, Vision, and Values - all of which can be found in the front of the Operations Manual. It cannot be overemphasized that the Department's Values are its guiding principles. To achieve its Vision and accomplish its Mission, the Department must be committed to these values. All members of the Department, whether sworn or civilian, rank and file, or supervisor/command, must embrace their values and strive to demonstrate them in their professional and private lives. Below is an assessment of what each value means and how each relates to discipline.

Integrity

Honest and ethical behavior in all we do, our actions will match our words.

Integrity means acting out of a sense of moral principle and having the courage to do the right thing.

Integrity is the cornerstone of the public's trust of the Department and is essential to the creation of partnerships with the community. It is also the foundation for officers' belief in and respect for the Department.

A lack of integrity can have severe consequences, including corruption, bias, ineffectiveness, and loss of respect, and can undermine everything for which the Department is supposed to stand.

Officers with integrity are officers whose word can be trusted. Honesty is expected of each individual officer. Avoiding any deception, mis-representation or omission of relevant facts and telling the complete truth are necessary to ensure integrity in the Department.

There is no basis for respect or trust without integrity. If the Department fails to demand integrity, it breaks faith with the public and its own officers. The Department must reinforce the core value of integrity with its actions, words, and conduct. Integrity must be expected of everyone, from the Chief to the newest officer or recruit. No complaint can be fully investigated, no finding can be legitimately reached, and no discipline can be fairly imposed without honesty.

Courage

Selfless devotion to duty; taking action in the face of danger and holding ourselves and our peers to the highest ethical standards

The Department recognizes that the mere act of donning a police uniform while making oneself available to answer any call of duty, without any degree of certainty what lies ahead, is in of itself a display of bravery. Apart from that, the Department also expects its officers to perform any one of those calls for duty with a high ethical standard and with an even more profound respect for the sanctity of life. That is the true spirit of courage - the ability of perform any police task selflessly, ethically, and with a moral foundation.

Coupled with this courage is the ability to be accountable. Accountability means accepting responsibility. Being accountable requires that an officer is answerable, to both the public and the Department, for his or her conduct.

Officers demonstrate accountability by acknowledging their own conduct, whether good or bad, mistaken, or intentional, and accepting the consequences. Being accountable also means that officers are courageous enough to understand that their community looks to them to set a positive example in their professional and personal lives.

Service

Providing respectful police services to all, realizing that we achieve more through partnerships. Our motto "To Serve and Protect" is not just a slogan – it is our way of life.

Law enforcement is first and foremost a service profession. "To Serve and Protect" is a long-treasured motto that succinctly expresses what law enforcement is about. Customer service is the expression of the quality of the courtesy, help, advice, information, and resolution officers provide to the community on a daily basis.

From the most violent crime to the most minimal dispute with a neighbor, police officers are asked to step into situations that are ripe with tension, hard feelings, and discomfort. When police officers are courteous, empathetic, and compassionate in dealing with citizens, when all problems are treated as important, when all people are treated with dignity and when there is follow through on promises made, officers have provided good customer service.

The importance of service cannot be overstated. Every time that an officer contacts a citizen, he or she acts as a good will ambassador for the Department. Taking the extra step to exceed what a citizen expects from an encounter pays incredible dividends. The quality of customer service will often determine whether a citizen will greet the police at their door with a helpful or hostile attitude. Officer safety is also enhanced because citizens who receive good customer service see officers as being a part of their community and are more willing to help the police.

When officers fail to provide good customer service, not only are all of the potential positives lost, but suspicion, disbelief and hostility can result. These negative views of police officers have an effect on every aspect of the Department's operations. Whether a fellow officer is serving as a court witness or responding to a citizen's call, the impression left by each individual officer can affect the way citizens view every other officer.

Innovation

Innovation is encouraged to create a learning organization that will grow and develop new and innovative practices to accomplish our mission.

Innovation is the result of valuing the inventiveness, originality, and creativity of officers. It can only be achieved when the Department as a whole is open to new ideas.

Encouraging innovation means that it is safe to propose a new approach or to provide constructive criticism of an existing strategy. Encouraging innovation means that each and every member of the Department knows that they are expected to constantly evaluate how things are done and look for ways to do things better.

By embracing innovation as a core value, the Department sends the message that its officers are an integral part of improving the organization. A department that prizes creativity and innovation is saying to its officers that critical review and new ideas are both desired and needed. In an innovative department, officers fully understand that they are viewed as important contributors to the overall quality of the organization. When encouraged, innovation gives the Department opportunities to change outdated and inadequate approaches and implement better and more meaningful strategies. The outcome of embracing innovation is improved morale and better service to the community, as well as true partnership, both internally among officers and externally with the community and the Department.

Innovation is also found outside of the Department, from within our community. Welcoming innovation from the community as it relates to ideas, interactions, and partnerships with the police department will continue to foster a progressive and productive culture.

Inherent in creativity and innovation is the taking of risks and the acknowledgement that mistakes will be made.

Teamwork

Teamwork is fostered in all areas. We believe that solutions to crime problems come from the inside and outside of our organization. Establishing a variety of partnerships is vital to the accomplishment of our mission.

Teamwork is combining individual strengths to accomplish a common goal. Teamwork includes all officers working in partnership with each other and the community to carry out the Department's Mission and to achieve its Vision.

Teamwork means that every officer recognizes that both citizens and the police are essential to supporting a safe community. With teamwork, the Department can draw upon both the wisdom of the individual and the collective wisdom of the group to move the Department and community forward. Within the Department, teamwork results in safer policing, creativity in addressing problems and making improvements, and greater job satisfaction overall.

If teamwork is discounted, officers may put their fellow officers at risk. Without teamwork, officer and citizen safety can be compromised and the ability to achieve the goals, objectives and plans of the team, the Department, and the community is diminished.

The Law Enforcement Code of Ethics

In addition to its stated mission, vision and values, the Department has incorporated another statement of principle that is recognized as vital to setting standards of officer conduct, "The Law Enforcement Code of Ethics" (Code). The Operations Manual of the Department incorporates this important document and explains that "the canons defined by the Law Enforcement Code of Ethics, rules, regulations and duties contained in this manual are published for the information and guidance of each employee of the Department." The Code was originally established by the International Association of Chiefs of Police (IACP) in 1957 to govern the conduct of its members and subsequently revised unanimously in 1991. The Department reaffirms the continuing viability of the Code every time the Department's Values are restated. The integration of the concepts of the Code into the Department's Values is necessary to provide a better understanding of how they interrelate and how the Code relates to discipline.

Among the concepts addressed in the Code are these:

- The Code sets the tone for the overall mission of the Department by pointing out the essential service obligation of all law enforcement officers, the "fundamental duty … to serve mankind." In today's context, this extrapolates not only to the Department motto of "To serve and to protect," but also to the core value of Service, which the Department has incorporated into its statement of values.

- The Value of Courage is demonstrated in the Code's recognition of that aspect of "service to all mankind" which is reflected in the statement that officers will work to "safeguard lives and property, to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder." This too exemplifies the highest sense of service to which a law enforcement officer can aspire, and it demonstrates the Department's commitment to care of citizens – its customers.

- It is a fundamental duty of an officer to "respect the Constitutional rights of all" to "liberty, equality and justice." This obligation of the Code is part and parcel of the Department's core values of Integrity, Courage, and Service. It also reminds officers that they are trusted to serve as guardians of our Constitution and Bill of Rights and that their decisions should always be grounded in law.

- The Code demands that officers keep their private lives "unsullied" as "an example to all." Just as with the Department's core values of Integrity, Courage, and Service, the Code also acknowledges the importance of leadership by example. Adherence to these important concepts demonstrates a mature understanding that, to the public, officers are always seen as officers first, whether they are on or off duty.[1]

[1] The acceptance of this principle of the Code is not intended to restrict or control the conduct of officers in matters which are private, not otherwise in violation of the law and not reasonably related to an officer's duties and responsibilities or the use/misuse of property or equipment connected with the Department.

- When the Code calls upon all officers to “maintain courageous calm in the face of danger, scorn or ridicule,” it recognizes the all-important core value of Integrity. It also incorporates the need to act with Courage, understand Teamwork, and provide excellent Service. In this short phrase, the Code makes absolutely clear that, even in the most dangerous and difficult situations, officers are held to the highest standards and are expected to act rationally, fairly and safely for the benefit of the public, their fellow officers, and themselves.

- In providing direction to officers that they must “develop self-restraint,” the Code acknowledges the reality that the law provides police officers with great power and that it is incumbent upon officers, as servants of the people, to choose the least intrusive use of power which will allow them to fulfill their obligations and perform their duties. Whether, for example, it involves the use of physical force in making an arrest or staying within the parameters of a search warrant that is being executed, “self-restraint” is a critical tool in ensuring that the power given to police officers is used judiciously. This mandate is echoed in the Department’s incorporation of the Values of Integrity, Courage, and Service. Additionally, there are occasions when some citizens may act unfairly, disrespectfully, and inappropriately. Those are the times that test the Integrity, Courage, and Service of any officer. However, the Code, like these core Department Values, will remind officers that they are expected to rise above bad behavior by those they are entrusted to help and still provide excellent Service.

- The Code also requires that officers must be “constantly mindful of the welfare of others.” While this directive reinforces the need to “develop self-restraint,” it demonstrates a different focus. By requiring officers to “constantly” think of the welfare of other people, this phrase emphasizes that the touchstone of all decision-making for law enforcement officers must, necessarily, be the public good. The Department assimilates this important requirement of the Law Enforcement Code of Ethics into its Values of Integrity, Courage, and Service.

- Without question, the Code value of honesty and the Department value of Integrity emphasizes the importance of truthfulness in all facets of an officer’s responsibilities. A lack of truthfulness, or integrity, is detrimental to all law enforcement. Reinforcing this treasured principle from the Code in its Values was of critical importance to the Department.

- The Code explains the very essence of the high standards that the Department embraces in the phrase “I will be exemplary in obeying the laws of the land and the regulations of my department.” It is a fundamental expectation of everyone in law enforcement and every citizen in the community that officers always follow the law. Regardless of whether an officer is acting in their personal or professional life, there must be strict adherence to all laws by every single

officer on the Department. Without this most basic requirement, the Department's Values of Integrity, Courage, and Service, which are grounded in this principle, would be meaningless.

- The history of law enforcement is full of examples of why officers are entrusted with confidential information and the consequences that result when confidential information is divulged. The Code stresses the need for officers to accept this trust by directing officers to keep all confidential materials and information confidential, without exception. The Department underscored this important concept when it adopted the values of Integrity, Courage, and Service.

- The Code requires that officers "never act officiously or permit personal feelings, prejudices, animosities or friendships to influence decisions." As important today as when the Code was first written decades ago, this is the foundational guidepost for the Department's core values of Integrity, Courage, and Service. The Code was the first recognition that inappropriate influences of any kind will undermine the public trust.

- Courteous treatment is the underpinning of Integrity, Courage, Service, and Teamwork, and is a necessary component of all the Department's values. Courtesy towards all results in better citizen cooperation, greater public trust, and increased safety for officers. The Code addressed this important issue by directing all officers to "enforce the law courteously."

- An officer who is unnecessarily violent or excessively forceful in carrying out his or her duties will quickly undermine the confidence of the community. Recognition of this concern is found in the Code when it mandates that an officer should "never" employ "unnecessary force or violence." The Department embraces this mandate in its rules and regulations and in its adopted values of Integrity, Courage, and Service.

- The Code sets out another mandate that is essential to the public trust when it requires that an officer "never" accepts gratuities. The underlying concept of this Code statement is found in the Department's adoption of Integrity and Courage as core values. Accepting a gratuity can create an expectation that an officer will provide better service to the community member offering the gratuity. It can also create a perception among other community members that officers will enforce the law in favor of those granting gratuities or that to maintain a good relationship with an officer, special treatment must be provided.

- No officer can fulfill his/her obligation to the community and fellow officers unless he/she fully accepts that the position he/she holds is, in the words of the Code, "a public trust." Without this most fundamental understanding of the

importance, sensitivity, and necessity of their work, neither officers nor the Department can be successful.

The Mission, Vision, Values, and Law Enforcement Code of Ethics set the standards of the Denver Police Department. Read together, they establish a baseline of exemplary conduct, professional service, and true concern for community and officers which is expected from every officer in the Department. They also provide guidance for officers in making the tough decisions and choices with which they are confronted daily, and they help to keep officers safe. Officers who follow the precepts and philosophies encompassed in these documents bring pride to their Department, their fellow officers, their community, and themselves.

Appendix D – Application Considerations Regarding Certain Violations

Untruthfulness

In the past, the Department has dealt with issues of untruthfulness through RR-112, entitled "Departing from the Truth." RR-112 previously read: "Officers shall not willfully depart from the truth, either in giving testimony or in connection with any official duties."

Honesty is a core value of the Denver Police Department. As indicated previously in this Handbook: *Honesty is defined as being truthful, upright and genuine. Honesty is expected of each individual officer. 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 officers. The Department must reinforce the core value of honesty with its actions, words, and conduct. Honesty must be expected of everyone, from the Chief to the newest officer or recruit. No complaint can be fully investigated, no finding can be legitimately reached, and no discipline can be fairly imposed without honesty.*

One issue at hand is whether the Department should attempt to distinguish between falsehoods which have a serious impact and falsehoods which are not as serious. One opinion is that any attempt to distinguish between the two would send the message both to the Department and the community that "lying" was tolerated by the Denver Police Department. Some police departments have adopted so-called "zero tolerance" policies against untruthfulness. In fact, untruthfulness by a police officer has often been described as a "death penalty offense" for an officer's career. However, in many departments that claim a zero-tolerance policy for untruthfulness, less impactful falsehoods are not referred through the disciplinary process in order to avoid terminating an officer.

False statements have special significance in the disciplinary process because they go to the integrity of officers in fundamental ways. However, a false statement allegation, if proven, need not automatically lead to discharge. Otherwise, those false statements that do not require termination will not be brought to the attention of the Department's Administration and may not be dealt with in an appropriate manner.

Over the past several years, "comparative discipline" for "departing" violations have ranged from fined time to suspended time to termination. A review of past and recent "departing" cases shows that the Department has not been hesitant to bring "departing" charges, even in cases involving what would be considered less impactful falsehoods.

As noted above, not all cases of false statements warrant the penalty of termination. In addition, in some cases, an officer's early admission of untruthfulness could be a mitigating factor for a false statement that was made without premeditation. As such, RR-112 has two separate sections.

Definitions:

Knowingly means aware of the nature of the conduct. It refers to general intent with respect to conduct, not with respect to a circumstance or to a result of conduct, as defined in C.R.S. 18-1-501(6).

Knowledge of the materiality of the deceptive conduct is not a required element of the violation. Accordingly, the nature of deceptive conduct is untruthful representation, and does not include materiality. Rather, materiality is a relationship of the conduct to an investigation, or to a judicial or administrative proceeding. Deceptive conduct is material to an investigation, or to a judicial or administrative proceeding, if it has any significance, bearing, or weight with respect the subject of the investigation or proceeding; it need not be outcome determinative nor probative. Investigation includes an internal affairs investigation, a criminal or traffic investigation, or the investigation of any matter properly assigned to any component of the Department of Safety.

Act is conduct, and includes, but is not limited to, statements and omissions.

RR-112.1: Misleading or Inaccurate Statements: "Officers shall not knowingly make a misleading or inaccurate statement relating to their official duties." This new section applies to inaccurate and misleading statements regardless whether they are made with any intent to influence the outcome of an official investigation. The possible penalties for a first-time violation of this section (absent any prior disciplinary history or special circumstance) would range from a mitigated penalty of 4-6 days suspension (with the presence of mitigating factors) to a presumptive penalty of 10 days suspension to an aggravated penalty of 13-17 days suspension (with the presence of aggravating factors).

RR-112.2: Commission of a Deceptive Act: "In connection with any investigation or any judicial or administrative proceeding, officers 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." This new section refers to untruthfulness violations material to official investigations or proceedings. A first-time offender of this section should expect to be terminated. Only with the existence of appropriate mitigating circumstances would the mitigated penalty of 90 days be imposed. Only with extraordinary mitigation would an offender of this section receive anything less than a 90-day suspension.

A factor in mitigation that may be considered would be that the untruthfulness would not have been discovered but for the officer coming forward and making a truthful statement. In those circumstances, the presumptive penalty of termination may be avoided. Similarly, in those cases in which an admission of untruthfulness is made after an officer has been untruthful, the presumptive penalty of termination may also be avoided. The Department must be cognizant, however, that even in these circumstances, an officer's failure to be truthful may need to end that officer's career. Untruthfulness of the type contemplated in RR-112.2 may justifiably raise questions of the officer's trustworthiness and integrity and may impact the officer's ability to effectively perform his/her duties and responsibilities with regard to the criminal justice system. Instances of untruthfulness may also be disclosable to the District Attorney's or

City Attorney's Offices in order for prosecutors to meet their discovery obligations under the law.

Conduct Prohibited by Law

Undoubtedly, the Executive Director of Safety and Police Department need to be able to discipline police officers for engaging in conduct that is prohibited by criminal statutes or other laws. A primary reason for that need is that officers are employed in large part to enforce the law and, consequently, conduct by officers that violates the law is totally antithetical to a police officer's role in society and diminishes the public image of law enforcement officers. Engaging in conduct that violates a law, particularly a criminal law, may also negatively affect an officer's ability to perform his/her job functions.

RR 115 – Conduct Prohibited by Law - Conduct that violates any type of law can be used as the basis for a violation of RR-115.1, Conduct Prohibited by Law, or RR-115.2, Aggravated Conduct Prohibited by Law. Thus, whenever a preponderance of the evidence shows an officer engaged in conduct that is forbidden by a felony statute, misdemeanor statute, municipal ordinance, court order, or other law, whether criminal, civil, traffic, or administrative, the Department may discipline the officer for violating RR-115.1 or RR-115.2 (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 an officer who has passed probation is "the preponderance of the evidence" standard, which is a lower standard than the standard of proof in a criminal proceeding, "the proof beyond a reasonable doubt" standard. Therefore, there is no requirement that an officer actually be convicted of a criminal offense or receive a judgment against him/her in a civil proceeding for the Department/Executive Director of Safety to find that the officer has engaged in conduct that is prohibited by law. Nor is there any necessity for the officer even to be arrested, charged with a crime, or sued civilly.

Refusal of Criminal Filing by Prosecutor Not Dispositive - It is noteworthy that a District Attorney 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 DA may believe there is no reasonable likelihood of obtaining a criminal conviction;

(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.

Therefore, refusal to file a criminal case does not constitute evidence that an action under RR-115.1 or RR-115.2 should not be brought or not sustained against the officer. Nor would such a decision not to file a criminal case in any way mitigate the administrative action. Thus, so long as the Department/Executive Director of Safety can establish by a preponderance of the evidence that the officer has engaged in the conduct that is prohibited by law, it is not necessary that there be any action taken against the officer in the criminal or civil justice systems.

Effect of Finding or Plea of Guilty - On the other hand, actions that occur within the criminal justice system that establish an officer's violation of a criminal law (such as a guilty verdict following a trial or a guilty plea) generally will be considered by the Department/Executive Director of Safety as proving, for disciplinary purposes, that the officer has engaged in conduct that is prohibited by law. The reason that a conviction or guilty plea is generally 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 an administrative violation. Thus, if a judge or jury determines, under a proof beyond a reasonable doubt standard, that the evidence proves an officer has violated a criminal statute or ordinance, that evidence would also prove, under a preponderance of the evidence standard, that the officer 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 officer engaged in the forbidden 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.

Additionally, in order for a criminal defendant to enter a plea of guilty, the defendant must generally admit on the record to engaging in the conduct that is forbidden by the criminal statute. Such an admission in the criminal case would also establish for disciplinary purposes that the officer engaged in the prohibited conduct where the disciplinary violation is based upon the same conduct prohibited by the criminal statute. In fact, an officer's admission in a criminal case can be used to support a violation of RR-115.1 or RR-115.2 where the criminal conduct admitted constitutes one or more of the elements of the law that is the basis for the violation of RR-115.1 or RR-115.2.

Effect of Finding of Guilty as to Lesser Charges - If, in the criminal justice system, an officer 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, the Department/Executive Director of Safety may nevertheless bring an administrative action under RR-115.1 or RR-115.2 for violating any law for which a preponderance of the evidence establishes that the officer's conduct has violated the conduct prohibited by that law. Thus, the Department/Executive Director of Safety could assert a violation of RR-115.1 or RR-115.2 for the lesser crime for which the officer was convicted, any higher level crime for which he/she was not convicted, or any other crime so long as the conduct at issue in the administrative matter can be established by a preponderance of the evidence.

Effect of Finding of Not Guilty - A similar situation could arise if an officer is charged with one or more criminal violations but is found not guilty of all or any of them or if the case is dismissed for any reason. For the reasons already stated in this section, the Department/Executive Director of Safety could still bring an administrative action under RR-115.1 or RR-115.2 for violating any law for which a preponderance of the evidence establishes that the officer's conduct has violated the conduct prohibited by that law. However, sound reasonable judgment and caution must be exercised in such cases in order to avoid an injustice and to ensure that the administrative action is being taken for legitimate and appropriate purposes.

Mere Filing of Case Not Evidence - Of course, the mere fact that a criminal case is filed against an officer is not evidence supporting a violation of RR-115.1 or RR-115.2. Nor does the mere filing of criminal charges result in an aggravation of the administrative case because, at the time the criminal case is filed, it is unknown whether the criminal matter will result in a conviction or some type of plea that effectively admits the underlying conduct.

Criminal Conviction Not Mitigating But Can Be Aggravating

The fact that an officer has been prosecuted for a possible criminal violation or has been convicted of a criminal offense should never be a reason for the Department/Executive Director of Safety to decide not to bring or to sustain an administrative action against an officer for engaging in conduct that is prohibited by law. Nor should such prosecution or conviction in any way be a mitigating factor in imposing a disciplinary sanction on the officer if he/she is sustained for violating RR-115.1 or RR-115.2. On the other hand, conviction of a criminal offense based upon the same conduct at issue in the disciplinary case can be an aggravating factor in the case.

The Decision to Bring and Sustain an Administrative Action Based Upon Conduct Prohibited by Law

Another issue regarding RR-115.1 and RR-115.2 is whether the Department/Executive Director of Safety should bring an administrative action based upon the violation of one of those two disciplinary rules on any occasion when the Department/Executive Director of Safety believes the officer has engaged in conduct that is prohibited by law. From a legal standpoint, an action under RR-115.1 or RR-115.2 could be brought and sustained whenever a preponderance of the evidence indicates that the officer 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 in any case, but especially where an officer has not been found in contempt, prosecuted criminally or criminal charges have been dismissed, and there are other administrative rule violations which 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. Consultation with the appropriate prosecutor's office may better inform such a decision. In general, an administrative action for "Conduct Prohibited by Law" should be brought and sustained only where there is a legitimate and appropriate disciplinary purpose for doing so.

Cautionary Instructions When Reviewing an Alleged Violation of RR-115.1, Conduct Prohibited by Law, or RR-115.2, Aggravated Conduct Prohibited by Law

In those circumstances in which either the officer has not been criminally prosecuted with a law violation or criminal charges have been dismissed, the officer may nonetheless be sustained for an alleged violation of RR-115.1, Conduct Prohibited by Law, or RR-115.2, Aggravated Conduct Prohibited by Law. Reviewers, however, are cautioned that to sustain both a departmental rule violation and a violation of RR-115.1 or RR-115.2 may result in a "stacking of charges" as outlined in Sections 28.7 through 28.9 of these Conduct Principles and Disciplinary Guidelines. Sound reasonable judgment and caution must be exercised in such cases in order 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 officers to know what will trigger an administrative investigation when a criminal proceeding is pending against an officer. Generally, the Department will not proceed with the administrative case while a criminal case is pending but rather will await the disposition of the criminal matter before proceeding but need not do so in every instance. Many factors may influence the decision to proceed. This decision should be made cautiously and in consultation with the prosecutor's office. The factors for consideration include, but are not limited to:

(a) The seriousness of the officer'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 now divided into two categories – RR-115.1 – Conduct Prohibited by Law and RR-115.2 – Aggravated Conduct Prohibited by Law.

Under the matrix, RR-115.1 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 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-115.1 is sustained. Therefore, RR-115.1 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, in order 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 values 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 which could affect an officer's legal authority to possess or carry a firearm;

(f) Conduct which would constitute a mandatory disqualifier to being appointed to the position of police officer under current Civil Service Commission Rules;

(g) Conduct involving offenses listed as decertifying under POST standards; and

(h) Misconduct foreseeably resulting in serious bodily injury or death.

In contrast, RR-115.2, Aggravated Conduct Prohibited by Law, is intended to give all officers notice of the misconduct prohibited by law which the Department has pre-determined to carry a presumptive penalty of termination. These include any conduct prohibited as constituting a felony or class one misdemeanor or any conduct prohibited by State or Federal criminal statutes committed while on duty as a Denver Police officer or while off duty under the color of an officer's authority as a police officer.

<u>Conduct Prohibited by Law Involving Driving Under the Influence and Driving While Ability Impaired</u>

The Denver Police Department fully recognizes the serious public safety issues involved in the use of intoxicants in conjunction with the operation of motor vehicles. The Department invests significant resources in public education and the enforcement of laws related to driving offenses involving alcohol/intoxicants. Consequently, the Department has a significant interest in deterring such misconduct by its officers and in imposing appropriate discipline for involvement in violations related to such misconduct. Therefore, the violation of RR-115.1, Conduct Prohibited by Law, related to driving offenses involving alcohol/intoxicants should generally be considered a Conduct Category D violation – "Conduct substantially contrary to the values of the Department or that substantially interferes with its mission, operation or professional image or that involves a demonstrable serious risk to officer or public safety."

In addition, when warranted by the particular facts and circumstances of the specific case, certain driving offenses involving alcohol/intoxicants may meet the definitional criteria described in Conduct Categories E or F or may constitute a violation of RR-115.2, Aggravated Conduct Prohibited by Law. Similarly, the particular facts and circumstances may give rise to allegations of the violation of additional Departmental rules and regulations, where appropriate.

Due to the inherent dangers resulting from Driving under the Influence or Driving while Ability Impaired, the Department has determined that in any case where an officer has either:

(a) a prior criminal or traffic conviction (whether: (i) in Colorado; or (ii) under any federal law, any law of another state, or any ordinance of a municipality that substantially conforms to the statutory provisions of this state) for Driving under the Influence or Driving while Ability Impaired; or

(b) a prior sustained finding of any DPD rule violation where the officer's conduct violated the provisions of Driving under the Influence or Driving while Ability Impaired.

The Conduct Category that shall be used for any current rule violation where the officer's conduct violated the provisions of Driving under the Influence or Driving while Ability Impaired is Conduct Category F regardless of the Conduct Category(ies) to which that rule violation is otherwise assigned by the matrix system.

In determining the appropriate penalty for driving offenses involving alcohol/intoxicants, the reviewer must follow the principles and guidelines contained in this Handbook. A factor which may be considered mitigating in addition to those in Handbook Section 19.0 is:

(a) A blood alcohol content (BAC) level less than .08.

Among the factors which 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 officers;

(e) Attempts to elude apprehension;

(f) Resisting detention or arrest;

(g) Carrying a firearm on your person or displaying a firearm;

(h) Leaving the scene, tampering with, or altering evidence, making false statements to investigators, or other attempts to avoid detection or responsibility;

(i) Conduct which results in the loss of or restrictions to driving privileges; or

(j) A blood alcohol level of .15 or greater.

Any attempt to improperly influence an investigation by use of the officer's rank or position as a law enforcement officer should be addressed through the application of R&R-142 ("Soliciting Preferential Treatment") and not as an aggravating factor relating to the underlying law violation specification.

Apart from the imposition of appropriate discipline, officers should always be aware of other consequences which may result from driving offenses involving alcohol/ intoxicants. These consequences may affect an officer's ability to perform an essential function of his/her position as a police officer. Officers should also be aware of the provisions of Mayoral Executive Order 94 which address alcohol-related conduct "on duty" or while operating city vehicles. Specifically, "employees are prohibited from consuming, being under the influence of, or impaired by alcohol while performing City business, while driving a City vehicle or while on City property. If it is determined after the appropriate pre-disciplinary meeting that any of the following situations apply, the employee shall be dismissed even for the first offense for the following conduct:

1.) Members of the classified Service of the Police and Fire Departments or Deputy Sheriffs that violate their respective departments' prohibitions regarding illegal use of controlled substances;

2.) Safety-sensitive members of the Department of Aviation that violate their department's prohibitions regarding alcohol or drug use;

3.) The employee has endangered the lives of others, or foresee ably could have endangered the lives of others;

4.) The employee refuses to submit to any testing under this Order including, but not limited to, pre-placement, reasonable suspicion, random, post-accident, return to duty, follow-up, or unannounced testing;

5.) The employee uses, or attempts to use, a masking agent to alter the sample and/or drug and/or alcohol test results;

6.) The employee's disciplinary history compels dismissal as a matter of progressive discipline;

7.) The employee has refused to enter into a Stipulation and Agreement;

8.) The employee has violated the Stipulation and Agreement; or

9.) The employee violates Executive Order 94 for the second time in the employee's career with the City and County of Denver and/or its agencies."

Use of Inappropriate Force

One of the most important issues that a disciplinary system for any law enforcement entity must address is officers' use of force. Some other issues (such as discourtesy) may result in a greater number of citizen complaints than does use of force. However, due to the myriad consequences that can flow from such an incident, no issue is likely to impact the public's relationship with a law enforcement agency more than an officer's use of force. Consequently, law enforcement agencies must be vigilant in ensuring that they set appropriate standards for officers' use of force; that allegations of inappropriate force are thoroughly and objectively investigated; and that, when the evidence points to a use of inappropriate force, disciplinary penalties commensurate with the seriousness of the misconduct are imposed.

Among the use of force issues addressed in this Handbook are the following:

(a) Adopting the term "inappropriate force" to replace the current classification of force as "unnecessary force" or "excessive force";

(b) Defining the types of uses of force that can constitute "inappropriate force";

(c) Identifying factors that can be used to determine whether a particular use of force was, in fact, appropriate or inappropriate;

(d) Determining the conduct category for a use of inappropriate force by viewing the totality of the circumstances; and

(e) Identifying factors that can be used to determine whether the presumptive disciplinary penalty, a penalty in the mitigated or aggravated ranges, or some other penalty should be imposed.

<u>Use of Term "Inappropriate Force" and Its Application</u> - All uses of force which fall outside the standards of "Necessary" and "Reasonable," established by Departmental policy shall be classified as "inappropriate force." As such, this will help to eliminate the confusion that has resulted from using the terms "unnecessary force" and "excessive force" and having to determine which of those amorphous terms applies to a particular use of force. The term "inappropriate force" encompasses all of the following situations:

(a) An officer has used force in a particular circumstance but, under Departmental policy, no force should have been used;

(b) An officer has used a particular type of force but, under Departmental policy, a different type of force should have been used;

(c) An officer has used a particular type of weapon, device or instrumentality but, under Departmental policy, that type of weapon,

device or instrumentality should not have been used or should not have been used in the manner it was used;

(d) An officer has used force in a particular way but, under Departmental policy, the officer was not justified in using force in the way it was used; and

(e) Any other situation in which the officer's use of force is not justified by Departmental policy.

Factors to Consider in Whether a Use of Force was Inappropriate - A number of factors should be considered in determining whether a use of force was inappropriate.[1] One such factor is the vulnerability of the person against whom the force was used. If a person was unable to pose a credible threat to the officer or unable to defend himself/herself against the force used by the officer, it is more likely that the use of force would be inappropriate. An example of a vulnerable person may be someone who is handcuffed and, generally, compliant.

Another factor in deciding whether a use of force was appropriate or inappropriate is an officer's motivation for using the force. If an officer had an inappropriate purpose in using the force, such as an act of retaliation, a means of intimidation, or improper coercion, it is more likely that the use of force would be inappropriate.

The way in which the force was applied can be significant in the analysis. For example, if the officer applied the force in such a way as to maximize or minimize the pain or injury to the person against whom the force was used, the application of force could be either inappropriate or appropriate. This list of factors to consider in determining whether an officer's use of force was appropriate is not exhaustive. Therefore, anyone reviewing the use of force must decide whether, under the particular circumstances in which the force was used, the officer was justified in using the force he/she used. The weight given to any particular factor will vary according to the circumstances. Thus, in one situation multiple factors might be given equal weight in determining whether the force used was appropriate, while in a different situation one of the factors may weigh more heavily than the others.

Multiple Conduct Categories Pertaining to the Inappropriate Use of Force

Because the totality of the circumstances must be considered in analyzing whether a particular use of force was inappropriate, the level of culpability for using inappropriate force will vary from situation to situation according to the particular circumstances surrounding each use of force. Therefore, violations of RR-306, Inappropriate Force, are listed in the matrix as ranging from at least a Conduct Category D (Conduct substantially contrary to the values of the Department, etc.) up to Conduct Category F. Any reviewer must look to all the facts and circumstances of the particular use of inappropriate force to determine which conduct category (D, E or F) is most appropriate. In doing so, the reviewer should be guided by the analysis detailed in Section 15.0 of these Conduct Principles and Disciplinary Guidelines. This same analysis must be

[1] These factors should be considered in conjunction with other factors and considerations discussed in the Department's Use of Force Policy as well as other relevant policies.

accomplished when an inappropriate use of force is charged by use of RR-102 as it relates to a violation of a particular provision of the Department's Use of Force policy.

Use of the Matrix to Determine the Appropriate Penalty - Once a determination has been made that a particular use of force was "inappropriate" and the proper conduct category for that particular "inappropriate force" has been identified, the reviewer must ascertain whether, within the time frame for the current conduct category, the officer has previously been sustained for any prior violations that fall into the conduct category for the current violation or a higher conduct category. The presence or absence of a prior sustained violation in those conduct categories will establish the proper discipline level on the disciplinary matrix. At that point, the reviewer must determine whether the disciplinary penalty to be imposed upon the officer will be the presumptive penalty, a penalty in the mitigated or aggravated range, or in the case of special circumstances, a penalty less or greater than provided in the matrix.

Mitigation and Aggravation - In determining mitigating and aggravating circumstances, the reviewer should be guided by Sections 19.0 through 23.0 of these Conduct Principles and Disciplinary Guidelines. In addition, many of the same factors that were discussed above in determining whether the use of force was appropriate are also relevant to determining whether the discipline should be mitigated or aggravated. For example, the vulnerability of the person against whom force is used is a factor in considering mitigation or aggravation of the discipline. If a person is unable to pose a credible threat to the officer or unable to protect himself/herself against the force, that vulnerability could be an aggravating factor. Another factor to be considered in mitigation or aggravation is the officer's motive for using the force. It would aggravate the matter if the officer had an inappropriate purpose in using the force, such as, but not limited to, retaliation, intimidation, improper coercion, or discrimination.

The way in which the force was applied can also be significant in the analysis of whether to mitigate or aggravate the discipline. For example, if the officer applied the force in such a way as to minimize or maximize the pain or injury to the person, that could be either a mitigating or an aggravating factor. Likewise, if the officer chose a weapon or other device that would allow him/her to control the person with a minimum or maximum of pain or injury to the person, that too could be a mitigating or an aggravating factor.

If an involved officer has a history of inappropriate force violations, that history could be a factor in raising the disciplinary sanction from the presumptive penalty to the aggravated penalty. Furthermore, even when a prior sustained violation of inappropriate force is used to increase the disciplinary level on the matrix, a pattern of using inappropriate force could also justify, within the disciplinary level, imposition of the aggravated penalty rather than the presumptive penalty.

Of course, this list of mitigating and aggravating factors is not exhaustive. Therefore, the person reviewing the use of force must decide whether, under the particular circumstances in which the force was used, there are any other mitigating or aggravating factors to be considered. Furthermore, the weight given to any particular factor will vary according to the circumstances. Thus, in one situation multiple mitigating and aggravating factors might be given equal weight, while in a different situation one of the factors may weigh more heavily than the others (See Section 22.0).

Finally, the reviewer should also consider whether there are special circumstances which may justify a penalty greater than or less than that indicated by the matrix (See Section 25.0).

Sexual Misconduct

In the past, the Department has frequently dealt with issues relating to sexual misconduct by imposing discipline pursuant to RR-106, Immoral Conduct. The rule, as previously written, prohibited officers from participating in any "immoral, indecent, lewd, or disorderly conduct." The substance of RR-106 has been retained (without the word "disorderly") in a new rule numbered RR-106.1, and a new disciplinary rule has been created, RR-106.2, Sexual Misconduct, which reads as follows:

"While on duty, an officer 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 an officer has access by virtue of the officer's police authority. The consent of another to engage in such sexual conduct or sexual acts is immaterial."

The purpose of RR-106.2 is to address sexual conduct that an officer should reasonably know is inappropriate for a police officer to be engaged in while on duty or when off duty in uniform in a public place or in any police vehicle or facility. Such inappropriate conduct is not limited to sexual intercourse or oral sex but includes any sexual conduct that a reasonable officer should anticipate is offensive to the Department or the public in light of the duties and authority with which officers are entrusted. It should be emphasized that the purpose of the rule is not to control an officer's private sex life. The rule attempts, rather, to keep officers' private lives separate from their roles and responsibilities as police officers.

Sexual misconduct as defined by RR-106.2 constitutes a willful and wanton disregard for numerous core values of the Department. It also demonstrates a serious lack of integrity, ethics, or character related to an officer's fitness to hold the position of police officer. As such, the presumptive penalty for a first-time offender of RR-106.2 is termination. 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.

Conduct Prejudicial

Rule RR-105, which has been modified, now provides: "Officers shall not engage in conduct prejudicial to the good order and police discipline of the Department or conduct unbecoming an officer which:

(a) May or may not specifically be set forth in Department rules and regulations or the Operations Manual; or

(b) Causes harm greater than would reasonably be expected to result, regardless of whether the misconduct is specifically set forth in Department rules and regulations or the Operations Manual."

The Department/Executive Director of Safety may bring an action for violation of RR-105 pursuant to subpart (a) when the misconduct is not specifically set forth in Department rules or as an alternative to rule violations which are specifically set forth. When the violation of RR-105 is alleged as an alternative to other specifically charged rule violations, the penalty for Conduct Prejudicial should not be greater than the underlying alternative violations and should run concurrently with the penalties for the alternative rule violations. A reviewing body may affirm both the RR-105 violation pursuant to subpart (a) and the alternative rule violations, provided that the penalty for RR-105 runs concurrently with the penalties for the alternative rule violations. If the Department/Executive Director of Safety brings an action for violation of RR-105 pursuant to subpart (b) (harm greater than would reasonably be expected), the penalty for Conduct Prejudicial may run consecutively to the penalties for any other rule violations. The Department/Executive Director of Safety shall state whether RR-105 is being brought pursuant to subpart (a), subpart (b), or both.

Many different types and severity of misconduct can fall within the definition of "Conduct Prejudicial." Therefore, the Conduct Category (A - F) into which a particular violation will fall will depend upon the specific facts of the case. In bringing an action for a violation of RR-105, the Department/Executive Director of Safety must consider the facts underlying the conduct and determine the Conduct Category into which the violation of RR-105 falls by applying the analysis described in Section 15.0, above. The resulting conduct category shall then be used in conjunction with the consideration of relevant disciplinary history to determine the presumptive penalty. Thereafter, the normal analysis of considering mitigating and aggravating factors as well as special circumstances must be conducted in order to determine the appropriate penalty.

Reviewers are cautioned that sustaining a violation for RR-105 pursuant to subpart (b) <u>may</u> result in a "stacking of charges" as outlined in Sections 28.7 through 28.9 of these Conduct Principles and Disciplinary Guidelines. Sound reasonable judgment and caution must be exercised in such cases in order to avoid an injustice and to ensure that the administrative action is being taken for legitimate and appropriate purposes.

Careless Handling of Firearms or Less Lethal Weapons

Both the policies of the Department and the training provided to officers emphasize the importance of the safe handling of firearms both on and off duty. Officers are instructed as to the four rules of safe handling of firearms:

1) treat all guns as if they are always loaded;

2) never let the muzzle cover anything you are not willing to destroy;

3) keep your finger off the trigger until your sights are on target and you are prepared to shoot; and

4) always be sure of your target and beyond.

This training is continually re-emphasized in subsequent training in mandatory firearms qualification courses.

RR-402 (Careless Handling of Firearms or Less Lethal Weapons) states: "Officers shall not carelessly handle a firearm or less lethal weapon at any time." The careless handling of a firearm or less lethal weapon often results is what is mischaracterized as an "accidental discharge." It is seldom the failure of the weapon which causes the weapon to discharge. Rather, unintended discharges are overwhelmingly the result of operator error and create an obvious and immediate danger to the involved officer, his/her fellow officers, other employees, and members of the public.

A sustained violation of RR-402 (Careless Handling of Firearms or Less Lethal Weapons) can result in a categorization ranging from a minimum of a Conduct Category C up to a Conduct Category F violation. Care must be taken to follow the Conduct Category definitions and the principles set forth in Handbook Section 15.0 to determine the appropriate Conduct Category. Attempts to fit a violation into a Conduct Category so as to reach or avoid a particular penalty or discipline level must be avoided.

In cases where a sustained violation of this section involves "a demonstrable serious risk to officer or public safety," the act should be considered to be a Conduct Category D violation. A determination as to whether the violation involves a "demonstrable serious risk to officer or public safety" may be based on many factors including, but not limited to, the proximity of others to the discharged round.

In a case where any person (including the involved officer) is actually injured as the result of the careless handling of a firearm, such violation should be placed in Conduct Category E as "an act that results in an actual serious and adverse impact on officer or public safety." In a case where a person (other than the officer) suffers death or serious bodily injury, such violation should be placed in Conduct Category F if such a consequence is a foreseeable result of the commission of the prohibited act.

The fact that a person other than the officer suffers death or serious bodily injury, as the foreseeable result of an officer's careless handling of a firearm or less lethal weapon, does not automatically mean that the officer will be terminated for the aforementioned violation. As described in Section 19.0 of this Handbook, the reviewer must take into account all of 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 of the facts and circumstances of the case (§ 11.2). Additionally, the reviewer must undertake the analysis required in Handbook Sections 15.0 (Determining Appropriate Conduct Categories-Analysis), 25.0 (Special Circumstances), and 26.0 (Assessing the Seriousness of Misconduct and Harm Arising from Misconduct).

Driving Violations Resulting in Injury or Death

Both the policies of the Department and training provided to officers 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 for any other reason. In cases involving collisions that result from violations of the law or 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 officers and large civil payouts can be expected to be made by the City. Officers must not allow emotion to overtake caution, reason and common sense when driving Department vehicles.

Consequently, an officer who drives in violation of the law or any policy or traffic regulation or the Department's driving or pursuit policies, may well place himself, his fellow officers, other employees, and/or the public at risk for serious injury or death. Applying Section 26.0 of the Handbook (Assessing the Seriousness of Misconduct and Harm Arising from Misconduct), a sustained violation involving driving violations that resulted in injury or death can result in a categorization ranging from a Conduct Category C to a Conduct Category F violation. Care must be taken to follow the Conduct Category definitions and the principles set forth in Handbook Section 15.0 to determine the appropriate Conduct Category. Attempts to fit a violation into a Conduct Category so as to reach or avoid a particular penalty or discipline level must be avoided.

An officer who drives in violation of the law or any policy or traffic regulation or the Department's driving or pursuit policies and who foreseeably causes death or serious bodily injury to another person should expect to fall within Category F of the disciplinary matrix (as required by that portion of the Category F definition which includes: "any violation of law, rule or policy which: foreseeably results in death or serious bodily injury to another person.") This categorization reflects the stated goals and purposes of disciplinary sanctions as stated in Section 11.0 of this Handbook.

The fact that another person suffers death or serious bodily injury, as the foreseeable result of an officer's violation of the aforementioned policies, does not automatically mean that the officer will be terminated for the aforementioned violation. As described in Section 19.0 of this Handbook, the reviewer must take into account all of 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 of the facts and circumstances of the case (§ 11.2). Additionally, the reviewer must undertake the analysis required in Handbook Sections 15.0 (Determining Appropriate Conduct Categories-Analysis), 25.0 (Special Circumstances), and 26.0 (Assessing the Seriousness of Misconduct and Harm Arising from Misconduct).

Soliciting Preferential Treatment

RR-142, titled "Soliciting Preferential Treatment" has been added to the Department's rules, stating as follows:

> Officers shall not attempt to use their position as Department members (including displaying a badge or identifying themselves as Department members): (i) to solicit or to attempt to solicit any preferential treatment not extended to the general public; or (ii) 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.

It must be clearly understood by all members of the Department 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 vital to the reputation of the Department and the Department's values 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 others would not be entitled to under similar circumstances or should not be held as accountable for their actions as others would be.

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 which may be considered include, but are not limited to, the intent of the offending officer, 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 of these variables notwithstanding, the Department has determined that violation of this new rule is, at a minimum, a Conduct Category C 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 in order to determine the most appropriate category.

One factual situation of note is the circumstance of an officer being stopped by another law enforcement officer for a traffic violation. No officer should have the expectation that he/she is entitled to be treated differently from the general public; nor should that officer attempt to dissuade the officer from carrying out his/her duties based upon the fact that he/she is a "fellow law enforcement officer".

Nonetheless, whenever an officer who is carrying a concealed weapon is contacted by a law enforcement officer, safety considerations may mandate that the officer immediately inform the contacting officer that he or she is a law enforcement officer and

is in possession of a weapon. However, under no circumstances should an officer attempt to obtain preferential treatment based on his or her employment status.

Additional Definitions

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:

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

C.R.S. 18-1-901(3)(p) “Serious Bodily Injury” means bodily injury which, either at the time of the actual injury or at a later time, involves 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, or breaks, fractures, or burns of the second or third degree.

Appendix E – Non-Disciplinary Programs

Disciplinary Advisory Group ~ Programs Committee
Intervention Menu

Denver Police Academy**
Nicoletti-Flater-Associates^^

Law Violations

- Alcohol/DUI Classes**
- Anger Management**^^**
- Behavior Modification**^^**
- Domestic Violence Classes**
- Ethics Classes**
- Family/Relationship Counseling**^^**
- Mentoring
- Psychological Counseling**^^**

Rough/Careless Handling of City & Department Property

- Accident Investigation Training**
- Anger Management**^^**
- Mentoring
- Multi-tasking (Psychological Training) **^^**
- Multi-tasking (Skills Training) **
- Performance and Pursuit Driving**
- Process vs. Outcome Thinking Training**^^**
- Remedial Driving**
- Stress Management**^^**

Attendance in Court

- Anger Management**^^**
- Behavior Modification**^^**
- Major Case Investigation**
- Mentoring
- Public Speaking**
- Stress/Anxiety Management**/**^^**
- Testifying in Court Training**
- Time Management Training**
- Writing Skills**

Discourtesy

- Anger Management**^^**
- Behavior Modification**^^**
- Biased Policing**
- Communication/De-escalation Training**/**^^**
- Cultural Competency and Communication Skills**
- Dealing with Angry Citizens**
- Dealing with Difficult People**^^**
- Interpersonal Communication**/**^^**
- Interpersonal Skill Training**
- Mentoring
- Physical/Duty Skills Training**
- Preventing Burnout Training**
- Process vs. Outcome Thinking Training**^^**
- Psychological/Emotional Counseling**^^**
- Research Report
- Stress Management**^^**
- Verbal Judo**

Training Classes ~ Denver Police Academy

Continuing Education Programs (CEP)

- Career Development
  a. Business writing for professionals
  b. Mistake-free grammar and proofreading
  c. Time management
  d. Write On! – Effective business writing skills

- Supervisory / Command
  a. Active supervision: Making a positive difference
  b. Coaching for today's leaders
  c. Ethics in good leadership

- Traffic
  a. Remedial driving (given once a month)
  b. Accident investigation for the street officer

- Wellness
  a. Stress management

- Officer Safety
    a. ACT refresher course
    b. Krav Maga defensive tactics for law enforcement
    c. Performance and pursuit driving
    d. Pursuit intervention technique (PIT)
    e. Tactical environment
    f. Range 3000
    g. Cultural competency and communications skills
    h. Decisional shooting

- Patrol
    a. Building search tactics
    b. Tactical communications (Verbal judo)

Recruit Training

- Use of force
- Stress management & PTSD
- Officer survival
- Ethics
- Off-duty incidents
- Dealing with upset citizens
- Stop and frisk (maybe) / Detention vs. arrest
- Biased policing (racial profiling)
- Victim's state rights – domestic violence
- Laws of interrogation
- Domestic violence procedures
- Cultural awareness
- Handling in-progress calls
- Metro chase policy
- Vehicle stops / high risk stops
- Crime scene search and note taking
- DUI enforcement

Training Classes ~ Nicoletti-Flater Associates

- Anger Management
- Behavior Modification
- Communication/De-escalation
- Conflict Resolution
- Dealing with Mental Health Populations
- Domestic Violence
- Family/Relationship Stress
- Fear/Anxiety Related Problems

Training Classes ~ Nicoletti-Flater Associates (Cont.)

- Grief and Loss
- Interpersonal Communication
- Managing Difficult People
- Managing Suicide
- Organization and Time Management
- Performance/Test Anxiety
- Process vs. Outcome Thinking
- Psychological and/or Emotional Difficulties
- Return to Duty Consultations
- Sleep Disorders
- Stress Management
- Trauma Intervention

University of Colorado at Denver

- Denver Leadership Training

Appendix F - Penalty Table and Discipline Matrix

Penalty Table

Discipline Level	Mitigated Penalty	Presumptive Penalty	Aggravated Penalty
1		Oral Reprimand	Written Reprimand
2	Oral Reprimand	Written Reprimand	1-3 Fined Days
3	Written Reprimand To 1 Fined Day	2 Fined Days	4-6 Fined Days
4	2-4 Fined Days	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	Termination
8	90 Days Suspension	Termination	

Categories, Violations and Level Assignments Table

CATEGORY A

CONDUCT THAT HAS A MINIMAL NEGATIVE IMPACT ON THE OPERATIONS OR PROFESSIONAL IMAGE OF THE DEPARTMENT

EXAMPLES INCLUDE BUT ARE NOT LIMITED TO:		1st Violation in 3 Years -Level-	2nd Violation in 3 Years -Level-	3rd** Violation in 3 Years -Level-
RR-102.1	Duty to Obey Departmental Rules and Mayoral Executive Orders (A-F)*	1	2	3
RR-102.2	Requirement for Former Officers to Obey Laws, Denver Police Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)*			
RR-103	Aid Another to Violate Rule (A-F)*			
RR-105	Conduct Prejudicial (A-F)*			
RR-108.1	Plainclothes Officers - Identification			
RR-115.1	Conduct Prohibited by Law (A-F)*			
RR-116	Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)*			
RR-121	Off Duty in Uniform (A-F)*			
RR-129	Giving Name and Badge Number			
RR-136	Use of Tobacco Products in Police Facilities			
RR-205	Giving Testimonials, Seeking Publicity			
RR-314	Providing Assistance Outside the City			
RR-501	Personal Appearance in Court			
RR-612	Answer to Official Communications			
RR-614	Publication of Articles			
RR-616	Police Bulletin			
RR-802	Uniform Restrictions While Off Duty			
RR-805	Equipment Carried on Person			
RR-1001	Testifying in Civil Cases			
RR-1002	Service of Civil Processes			
RR-1003	Initiation of Civil Cases			
RR-1104	Location When Ill			
RR-1105	Reporting During Illness or Injury			

- 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 aggravating 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.
**The 4th or subsequent sustained violation of the same R&R, within the specified time frame, may result in more severe disciplinary recommendations.

Categories, Violations and Level Assignments Table

CATEGORY B

CONDUCT THAT HAS MORE THAN A MINIMAL NEGATIVE IMPACT ON THE OPERATIONS OR PROFESSIONAL IMAGE OF THE DEPARTMENT; OR THAT NEGATIVELY IMPACTS RELATIONSHIPS WITH OTHER OFFICERS, AGENCIES OR THE PUBLIC.

EXAMPLES INCLUDE BUT ARE NOT LIMITED TO:		1st Violation in 4 Years -Level-	2nd Violation in 4 Years -Level-	3rd** Violation in 4 Years -Level-
RR-102.1	Duty to Obey Departmental Rules and Mayoral Executive Orders (A-F)*	2	3	4
RR-102.2	Requirement for Former Officers to Obey Laws, Denver Police Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)*			
RR-103	Aid Another to Violate Rule (A-F)*			
RR-105	Conduct Prejudicial (A-F)*			
RR-108.2	Protecting Identity of Undercover Officers			
RR-115.1	Conduct Prohibited by Law (A-F)*			
RR-116	Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)*			
RR-121	Off Duty in Uniform (A-F)*			
RR-122.1	Respect for Fellow Officer			
RR-126	Amusement Places Restrictions			
RR-127	Responsibilities to Serve Public			
RR-128.1	Impartial Attitude			
RR-132	Purchase of Forfeited Property			
RR-140.1	Discourtesy			
RR-206	Soliciting Business			
RR-303	Trivial Offenses			
RR-304	Traffic Enforcement When Not in Uniform			
RR-309.1	Suggesting Bondsmen or Attorneys			
RR-605	Removal of Reports and Records			
RR-607	Failure to Make, File, or Complete Official Reports			
RR-613	Unauthorized Use of Department Letterheads			
RR-703	Soliciting Money for Political Purposes			
RR-704	Soliciting for Promotion, Appointment			
RR-806.1	Alteration of Badge Prohibited			
RR-807	Loss or Damage to Badge			
RR-808	Equipment and Property Restrictions on Use			
RR-809	Rough or Careless Handling of City, Departmental, or Outside Agency Property			
RR-902	Department Vehicle Operation			
RR-1101	Reporting Absence Prior to Roll Call			
RR-1102	Reporting for Duty (B-D)*			

- 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 aggravating 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.
**The 4th or subsequent sustained violation of the same R&R, within the specified time frame, may result in more severe disciplinary recommendations.

Categories, Violations and Level Assignments Table

CATEGORY C

CONDUCT THAT HAS A PRONOUNCED NEGATIVE IMPACT ON THE OPERATIONS OR PROFESSIONAL IMAGE OF THE DEPARTMENT, OR ON RELATIONSHIPS WITH OTHER OFFICERS, AGENCIES OR THE PUBLIC.

EXAMPLES INCLUDE BUT ARE NOT LIMITED TO:		1st Violation in 5 Years -Level-	2nd Violation in 5 Years -Level-	3rd** Violation in 5 Years -Level-
RR-102.1	Duty to Obey Departmental Rules and Mayoral Executive Orders (A-F)*	3	4	5
RR-102.2	Requirement for Former Officers to Obey Laws, Denver Police Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)*			
RR-103	Aid Another to Violate Rule (A-F)*			
RR-105	Conduct Prejudicial (A-F)*			
RR-107	Always on Duty			
RR-109.1	Commission of an Offensive Act While Intoxicated			
RR-115.1	Conduct Prohibited by Law (A-F)*			
RR-116	Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)*			
RR-117	Disobedience of an Order (C-F)*			
RR-119	Sleeping on Duty			
RR-121	Off Duty in Uniform (A-F)*			
RR-122.2	Abuse of Fellow Officers			
RR-138	Discrimination, Harassment and Retaliation (C-F)*			
RR-140.2	Verbal Assault and Abuse of the Public (C-D)*			
RR-141.2	Reporting of Prohibited Associations			
RR-142	Soliciting Preferential Treatment (C-F)*			
RR-204	Soliciting, Accepting Gifts, Gratuities			
RR-307	Posting Bail			
RR-310	Mistreatment of Prisoners/Suspects			
RR-401	Display of Firearms			
RR 402	Careless Handling of Firearms or Less Lethal Weapons (C-F)*			
RR-403	Restrictions on Auxiliary Weapons			
RR-702	Using Police Position to Gain Political Office			
RR-1004	Testifying for Defendant			
RR-1102	Reporting for Duty (B-D)*			

- 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 aggravating 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.
**The 4th or subsequent sustained violation of the same R&R, within the specified time frame, may result in more severe disciplinary recommendations.

Categories, Violations and Level Assignments Table

CATEGORY D

CONDUCT SUBSTANTIALLY CONTRARY TO THE VALUES OF THE DEPARTMENT OR THAT SUBSTANTIALLY INTERFERES WITH ITS MISSION, OPERATIONS OR PROFESSIONAL IMAGE, OR THAT INVOLVES A DEMONSTRABLE SERIOUS RISK TO OFFICER OR PUBLIC SAFETY.

EXAMPLES INCLUDE BUT ARE NOT LIMITED TO:		1st Violation in 7 Years -Level-	2nd Violation in 7 Years -Level-	3rd** Violation in 7 Years -Level-
RR-102.1	Duty to Obey Departmental Rules and Mayoral Executive Orders (A-F)*	5	6	7
RR-102.2	Requirement for Former Officers to Obey Laws, Denver Police Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)*			
RR-103	Aid Another to Violate Rule (A-F)*			
RR-105	Conduct Prejudicial (A-F)*			
RR-106.1	Immoral Conduct			
RR-109.2	Unfit for Duty			
RR-112.1	Misleading or Inaccurate Statement (D-E)*			
RR-115.1	Conduct Prohibited by Law (A-F)*			
RR-116	Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)*			
RR-117	Disobedience of an Order (C-F)*			
RR-121	Off Duty in Uniform (A-F)*			
RR 122.3	Insubordination			
RR-128.2	Impartial Attitude - Bias			
RR-130.1	Failure to Aid or Protect Fellow Officers – Unreasonable			
RR-138	Discrimination, Harassment and Retaliation (C-F)*			
RR-140.2	Verbal Assault and Abuse of the Public (C-D)*			
RR-141.1	Prohibited Associations (D-F)*			
RR-142	Soliciting Preferential Treatment (C-F)*			
RR-306	Inappropriate Force (D-F)*			
RR-311.1	Compromising Criminal Cases			
RR-312.1	Interfering with Case Assigned to Other Officers			
RR-402	Careless Handling of Firearms or Less Lethal Weapons (C-F)*			
RR-601.1	Communication of Confidential Information, Generally			
RR-603	Destruction of Evidence			
RR-806.2	Use of Badge by Person other than Officer			
RR-1102	Reporting for Duty (B-D)*			
RR-1106	Feigning Illness or Injury			

- 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 aggravating 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.
**The 4th or subsequent sustained violation of the same R&R, within the specified time frame, may result in more severe disciplinary recommendations.

Categories, Violations and Level Assignments Table

CATEGORY E

CONDUCT THAT INVOLVES THE SERIOUS ABUSE OR MISUSE OF AUTHORITY, UNETHICAL BEHAVIOR, OR AN ACT THAT RESULTS IN AN ACTUAL SERIOUS AND ADVERSE IMPACT ON OFFICER OR PUBLIC SAFETY OR TO THE PROFESSIONALISM OF THE DEPARTMENT.

EXAMPLES INCLUDE BUT ARE NOT LIMITED TO:		1st Violation	2nd Violation	3rd** Violation
RR-102.1	Duty to Obey Departmental Rules and Mayoral Executive Orders (A-F)*	No Time Limit	No Time Limit	No Time Limit
RR-102.2	Requirement for Former Officers to Obey Laws, Denver Police Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)*	-Level-	-Level-	-Level-
RR-103	Aid Another to Violate Rule (A-F)*			
RR-105	Conduct Prejudicial (A-F)*			
RR-109.3	Drinking on Duty or While in Uniform (E-F)*			
RR-112.1	Misleading or Inaccurate Statement (D-E)*			
RR-114	Intimidation of Persons			
RR-115.1	Conduct Prohibited by Law (A-F)*	6	7	8
RR-116	Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)*			
RR-117	Disobedience of an Order (C-F)*			
RR-120	Appropriating Property (E-F)*			
RR-121	Off Duty in Uniform (A-F)*			
RR-123	Assault of Fellow Officer			
RR-138	Discrimination, Harassment and Retaliation (C-F)*			
RR-141.1	Prohibited Associations (D-F)*			
RR-142	Soliciting Preferential Treatment (C-F)*			
RR-203	Accepting Gifts from Persons of Bad Character			
RR-302	Personal Family Disputes			
RR-305	Duty to Protect Prisoner			
RR-306	Inappropriate Force (D-F)*			
RR-309.2	Suggesting Bondsmen or Attorneys for Profit			
RR-402	Careless Handling of Firearms or Less Lethal Weapons (C-F)*			
RR-601.2	Communication of Confidential Information that Jeopardizes a Police Action (E-F)*			
RR-606	Destruction of Reports or Records			
RR-609	Altering Information on Official Documents			
RR-1107	Physical or Mental Examination (E-F)*			
RR-1108	Release of Medical Information			

- 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 aggravating 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.
**The 4th or subsequent sustained violation of the same R&R, within the specified time frame, may result in more severe disciplinary recommendations.

DENVER POLICE DEPARTMENT - DISCIPLINE MATRIX

Categories, Violations and Level Assignments Table

CATEGORY F

ANY VIOLATION OF LAW, RULE OR POLICY WHICH: FORESEEABLY RESULTS IN DEATH OR SERIOUS BODILY INJURY TO ANOTHER PERSON; OR CONSTITUTES A WILLFUL AND WANTON DISREGARD OF DEPARTMENT VALUES; OR INVOLVES ANY ACT WHICH DEMONSTRATES A SERIOUS LACK OF THE INTEGRITY, ETHICS OR CHARACTER RELATED TO AN OFFICER'S FITNESS TO HOLD THE POSITION OF POLICE OFFICER; OR INVOLVES EGREGIOUS MISCONDUCT SUBSTANTIALLY CONTRARY TO THE STANDARDS OF CONDUCT REASONABLY EXPECTED OF ONE WHOSE SWORN DUTY IS TO UPHOLD THE LAW; OR INVOLVES ANY CONDUCT WHICH CONSTITUTES THE FAILURE TO ADHERE TO ANY CONTRACTUAL CONDITION OF EMPLOYMENT OR REQUIREMENT OF CERTIFICATION MANDATED BY LAW.

EXAMPLES INCLUDE BUT ARE NOT LIMITED TO:		
RR-102.1	**Duty to Obey Departmental Rules and Mayoral Executive Orders (A-F)***	**1st Violation -Level- 8**
RR-102.2	**Requirement for Former Officers to Obey Laws, Denver Police Department Rules and Regulations, and Certain Orders during the Pendency of Appeals (A-F)***	
RR-103	**Aid Another to Violate Rule (A-F)***	
RR-105	**Conduct Prejudicial (A-F)***	
RR-106.2	**Sexual Misconduct**	
RR-109.3	**Drinking on Duty or While in Uniform (E-F)***	
RR-109.4	**Under the Influence**	
RR-111	**Controlled Substances**	
RR-112.2	**Commission of a Deceptive Act**	
RR-115.1	**Conduct Prohibited by Law (A-F)***	
RR-115.2	**Aggravated Conduct Prohibited by Law**	
RR-116	**Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law (A-F)***	
RR-117	**Disobedience of an Order (C-F)***	
RR-120	**Appropriating Property (E-F)***	
RR-121	**Off Duty in Uniform (A-F)***	
RR-130.2	**Failure to Aid or Protect Fellow Officers – Intentional or Reckless**	
RR-137	**Collective Bargaining Fair Share Fee**	
RR-138	**Discrimination, Harassment and Retaliation (C-F)***	
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RR-1107	**Physical or Mental Examination (E-F)***	
RR-804	**Exercise of Authority While Under Suspension**	
RR-1103	**Constructive Resignation**	
RR-1201	**POST Certification Required**	

*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.

Scheduled Discipline

The following violations are subject to Scheduled Discipline as set forth in the Denver Police Department Operations Manual, rather than the Disciplinary Matrix set forth above.

1) OMS 120.01(2)(d)(3) - Required Minimum Annual Continuing Education

   1st Offense – 8 Fined Hours
   2nd Offense (in subsequent calendar years) – 24 Fined Hours
   3rd Offense – "Subsequent violations may be dealt with more severely"

2) OMS 120.01(2)(d)(2) - CEP Cancellation / CEP Failure to Attend

   1st Offense – Written Reprimand
   2nd Offense (within 1 year) – 8 Fined Hours
   3rd Offense – "May be dealt with more severely"

3) OMS 120.01(3)(e) - Failure to Shoot for Efficiency

   1st Offense – 1 Fined Day
   2nd Offense – (within 12 months) - 3 Fined Days and remedial training
   3rd Offense – (within 5 consecutive years) – Chronic Offender

4) OMS 103.02(5)(b) - Failure to Appear in Court *(filed under RR-502)*

   1st Offense – Oral Reprimand
   2nd Offense – (within 12 months) - Written Reprimand
   3rd Offense – (within 12 months) - 8 Fined Hours
   4th Offense – (within 12 months) - 40 Fined Hours

5) OMS 203.08(2)(d)(6) - Preventable Accidents *(filed under RR-809)*

   1-4 Points - Oral Reprimand
   5-9 Points - Written Reprimand
   10-15 Points - A fine of one to five days
   16-20 Points - Suspension from three to ten days without pay
   21+ points - Minimum 5-day suspension without pay or more stringent action as appropriate.

6) OMS 112.03(4) - Photo Radar and Photo Red Light

   3rd Offense - Oral Reprimand
   4th Offense - (within 12 months) - Written Reprimand
   5th Offense - (within 12 months) - 8 Fined Hours
   - Subsequent, or flagrant violations may result in more severe disciplinary recommendations

7) OMS 501.03(2)(b) - Punctuality (*filed under RR-125)*

1st Offense - Oral Admonition
2nd Offense - Oral Reprimand
3rd Offense - Written Reprimand
4th Offense - 8 Fined Hours

- "Subsequent violations may be dealt with more severely."
- 6 offenses within 12 months or 9 offenses within 3 years = Chronic Offender.

8) OMS 112.01(3)(c)(2) - Safety Restraining Devices

1st Offense - Oral Reprimand and Journal Entry
2nd Offense (within 12 months) - Written Reprimand
3rd Offense (within 12 months) – 1-day suspension

- "Subsequent violations will be dealt with more severely."

9) OMS 119.04(12) – Body Worn Camera

1st Offense (within 12 months) - Oral Reprimand, Policy Review, and Journal Entry
2nd Offense (within 12 months) - Written Reprimand, Audit, and PAS Review
3rd Offense (within 12 months) - 1 Fined Day

- "Purposeful, flagrant, or repeated violations will result in more severe disciplinary action. At any time during review, if deemed necessary, violations can be removed from the scheduled discipline above and transitioned to a formal investigation governed by the discipline matrix".

10) OMS 505.01(9)(c) – On-Call Requirements / Fail to Respond to a Call for Duty

1st Offense (within 12 months) - Written Reprimand
2nd Offense (within 12 months) - Fine of 8-hours (1 day)
3rd Offense (within 12 months) – Chronic Offender (violations will be dealt with more severely within the Discipline Matrix)

11) OMS 118.02(5) – Biased Policing - Stop Data Collection

1st Offense (within 12 months) - Oral Reprimand, Policy Review, and Journal Entry

2nd Offense (within 12 months) – Written Reprimand and PAS Review
3rd Offense (within 12 months) – 1 Fined Day

- "Purposeful, flagrant, or repeated violations will result in more severe disciplinary action. At any time during review, if deemed necessary, violations can be removed from the scheduled discipline above and transitioned to a formal investigation governed by the discipline matrix".

RULES AND REGULATIONS
FOR THE

POLICE DEPARTMENT
OF THE CITY AND COUNTY
DENVER, COLORADO

Effective 1st Day of May 1972

Approved by the
City Attorney
Executive Director of Safety
Chief of Police

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POLICE OFFICER'S

OATH

City and County of Denver

State of Colorado

I do solemnly swear by the ever-loving God that I will support the Laws and Constitution of the United States and of the State of Colorado, and the Charter and Ordinances of the City and County of Denver; and that I will faithfully perform the duties of the office of Police Officer of the City and County of Denver, to which I have been appointed.

Denver Police Department

LAW ENFORCEMENT

CODE OF ETHICS

As a Law Enforcement Officer, my fundamental duty is to serve mankind, to safeguard lives and property, to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.

TERMINOLOGY

Absent Without Leave (AWOL) - Failure to report for duty without proper and sufficient reason, and without securing proper approval in advance.

Acting - Serving temporarily in a position to which the member is not ordinarily assigned usually in a position of higher rank. All the authority, responsibilities and duties of the officer in the higher position devolve upon the acting member.

Annual Leave - The vacation granted all members once each year.

Beat - An area assigned for foot patrol.

Chain of Command - The unbroken line of authority extending from the Chief of Police through a single subordinate at each level of command, down to the level of execution, and return.

CSA/Civilian Employees - Employees who are not in the Classified Service.

Classified Service - All positions and their classification which are under police civil service.

Daily Bulletin - The official publication of the Department. All directions contained in the bulletin have the force and effect of Department orders.

Directive - Permanent written orders issued by the Chief of Police, Deputy Chief, Bureau, District, Division, Section, or Unit Commander intended to guide the operations of the Department, Division, Bureau, District, Division, Section, or Unit under their command.

Discharge - The act of dispensing with or terminating the services of a member.

Discovery – Disclosure of all evidence and information related to any investigation within the scope of the Colorado Rules of Criminal Procedure and the Colorado Municipal Court Rules of Procedure.

District - A section of the city in which operates a police unit subordinate to the Deputy Chief of Operations, and the Chief of Police.

District Commander - A Lieutenant or Captain assigned as a commanding officer in charge of a district station and district police personnel.

District Station - The police building that houses or serves district police personnel.

Emergency Procedure Plan - The plan of organization and disposition of personnel of the Department in coping with a major disaster, catastrophe, or civil disturbance.

Headquarters - The center of administrative operations and authority.

Immediately - The term is to be construed to mean as soon as possible and practical.

Incompetence - Incapable of satisfactory performance of police duties.

Inquest - The investigation of death conducted by the Medical Examiner's office.

Insubordination - The willful disobedience of any lawfully issued order by a superior officer, or any disrespectful, mutinous, insolent, or abusive language toward a superior officer.

Leave of Absence - An extended period during which an officer is granted leave from active duty without pay.

Leave - Death - The period of time during which an officer is excused from active duty by reason of the death of a near relative.

Leave - Military - A leave granted to serve in any of the recognized branches of Military Service.

Leave - Period - The rest period granted each 28-day work period during which the member is free from the performance of his/her regular duties.

Leave - Sick - The period of time during which an officer is granted leave from active duty by reason of illness or injury, or days in excess of required accumulated reserve.

Line Operation - All activities in which division members are engaged that directly affect the accomplishment of the police purpose. Line operations include; Patrol, Major Crimes, Investigative Support and Special Operations Divisions.

Medical Examiner Investigator - An investigator who represents or accompanies the Medical Examiner.

His/her duties are to gather factual information and evidence relative to the circumstances of death.

Member - All persons in the Classified Service on the Police Department payroll and the Chief of Police.

Neglect of Duty - Failure to give suitable attention to the performance of duty.

Off Duty - The state of a member during the rest period when he/she is free of the responsibility of performing his/her usual routine duties.

Officers - Members of the Department generally without regard to rank, division, sex, or duty. Wherever applicable, all references to he shall include she.

Off the Air – In service but not available for radio communication.

On the Air - In service with the radio equipment in operation.

On Duty - The state of a member during the period of the day (shift) when he/she is actively engaged in the performance of his/her duty.

Operations Manual - A manual prepared under the direction of the Chief of Police to outline in detail the current operating procedures of the Department.

Order - A command or instruction given by a superior to a subordinate. It may be oral or written.

Out of Service - On duty but not available for radio call or other assignment because of previous assignment, on sight police action, car trouble, etc.

Out on Traffic - Temporarily out of service but maintaining radio communication. Out on traffic for a one person car is the same as out of service.

Patrol Car - A car used by an officer in the performance of his/her patrol duties, generally, a recognizable police vehicle. A "marked car".

Plain Clothes Officer - ”Any officer whose duties require him/her to wear non-uniform attire during the performance of their duties.”

Post - A fixed point or location to which officers are assigned for duty.

Precinct - An area within a district assigned for motor patrol.

Procedure - It is a prescribed method of dealing with a given situation.

Report - A written or electronic communication, unless otherwise specified, relating to police matters.

Reserve Officer - A civilian who receives no pay for his/her services and whose duties are to assist the Police Department as an auxiliary officer when needed.

Rules and Regulations - A directive issued by the Chief of Police and approved by the Executive Director of Safety setting forth the rules, regulations, and procedures under which the police department will discharge its responsibilities and regulate the conduct of its officers and personnel.

Shift - The period during which an officer is on duty.

Solo Motorcycle - A two wheeled motorcycle.

Special Detail - Officers, from one or more units, grouped together for a specified mission.

Special Duty - Police service, the nature of which may require that the member be excused from the performance of his/her regular duties.

Special Orders - Written order issued by the Chief of Police of a temporary nature that ordinarily does not affect the entire Department.

Staff Supervision – The supervision by a superior officer of a subordinate not under his/her direct command for the purpose of fulfilling the staff operations of the Department.

Supervisory Officer - Officers assigned to positions requiring the exercise of immediate supervision over the activities of other officers or employees.

Superior Officer - All officers with the rank of Sergeant, Lieutenant, Captain, Commander, Deputy Chief or the Chief of Police.

Through Official Channels - Through the hands of superior officers in the chain of command.

Tour of Duty - The shift during which an individual member is on duty.

Uniformed Officer - Denoting an officer who wears a regulation police uniform.

Unmarked Car - A patrol car used by the uniformed or detective personnel with no recognizable police decals, lights or siren exposed.

RULES AND REGULATIONS

PREAMBLE

Officers shall obey all Departmental rules, duties, procedures, instructions, and orders; the provisions of the Operations Manual; and Mayoral Executive Orders. Failure to comply with any of the Rules and Regulations of the Denver Police Department shall be construed 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 Police Department, but not by way of limitation.

RR-100 Conduct

RR-101 Deleted 10/2008

RR-102 Deleted 10/2008

RR-102.1 Duty to Obey Departmental Rules and Mayoral Executive Orders
Officers shall obey all Departmental rules, duties, procedures, instructions, and orders; the provisions of the Operations Manual; and Mayoral Executive Orders.

RR-102.2 Requirement for Former Officers to Obey Laws, Denver Police Department Rules and Regulations, and Certain Orders during the Pendency of Appeals

Any former DPD officer:

a. who has been separated from employment with DPD 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 state and federal statutes, municipal ordinances, the Charter of the City and County of Denver, DPD 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 DPD. If any former officer 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 officer upon such return to service.

RR-103 Aid Another to Violate Rule
Officers shall not aid, abet or incite another in the violation of the rules, duties, orders, or procedures of the Department.

RR-104 Deleted 06/2015

RR-105 Conduct Prejudicial
Officers shall not engage in conduct prejudicial to the good order and police discipline of the Department or conduct unbecoming an officer which:

a. May or may not specifically be set forth in Department rules and regulations or the Operations Manual; or

b. Causes harm greater than would reasonably be expected to result, regardless of whether the misconduct is specifically set forth in Department rules and regulations or the Operations Manual.

RR-106 Deleted 10/2008

RR-106.1 Immoral Conduct
Officers shall not participate in any immoral, indecent, or lewd conduct.

RR-106.2 Sexual Misconduct
While on duty, an officer 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 an officer has access by virtue of the officer's police authority. The consent of another to engage in such sexual conduct or sexual acts is immaterial.

RR-107 **Always on Duty**
Officers are held to be always on duty, although periodically relieved from the routine performance of it. They are always subject to orders from a supervisory officer and subject to calls from private persons. The fact that they may be technically off duty shall not relieve them from the responsibility of taking proper police action in any matter coming to their attention. When there is no urgent or immediate need for police action, they may request the dispatcher to turn the matter over to officers on duty in the district; but they shall take such police action as may be required prior to the arrival of the dispatched officers.

RR-108 **Deleted 10/2008**

RR-108.1 **Plainclothes Officers – Identification**
Members in plain clothes on or off duty shall promptly identify themselves when the necessity arises. At the scene of an emergency where it is desirable to display the badge continuously, it shall be attached to the outer-most garment.

RR-108.2 **Protecting Identity of Undercover Officers**
Uniformed officers shall not acknowledge a member in civilian clothes unless first addressed.

RR-109 **Deleted 10/2008**

RR-109.1 **Commission of an Offensive Act While Intoxicated**
Officers shall not consume any intoxicating substance while off duty to an extent that results in the commission of an obnoxious or offensive act that might tend to bring discredit upon the Department.

RR-109.2 **Unfit for Duty**
Officers shall not consume any substance while off duty to an extent that renders them unfit to report for his or her regular duty or on call shift.

RR-109.3 **Drinking on Duty or While in Uniform**
Officers shall not consume any intoxicating substance while on duty either in or out of uniform, or off duty while in uniform, except when necessary and authorized in the performance of duty.

RR-109.4 **Under the Influence**
Officers shall not consume any substance, while on duty either in or out of uniform, such that they are legally impaired except when necessary and authorized in the performance of duty.

RR-110 **Deleted 10/2008**

RR-111 **Controlled Substances**
Officers 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. Notwithstanding Colorado Constitutional Amendments 20 and 64, officers shall not use or possess marijuana, medical or otherwise, regardless of duty status.

RR-112 **Deleted 10/2008**

RR-112.1 **Misleading or Inaccurate Statements**
Officers shall not knowingly make a misleading or inaccurate statement relating to their official duties.

RR-112.2 **Commission of a Deceptive Act**
In connection with any investigation or any judicial or administrative proceeding, officers shall not knowingly commit a materially deceptive act.

RR-113 **Deleted 10/2008**

RR-114 **Intimidation of Persons**
Officers shall not intimidate any person for personal reasons under the color of authority.

RR-115 **Deleted 10/2008**

RR-115.1 **Conduct Prohibited by Law**
Officers shall obey the Charter of the City and County of Denver, all City ordinances, all state and federal statutes, all lawful court orders, and all other applicable laws whether criminal, civil, traffic, or administrative.

RR-115.2 **Aggravated Conduct Prohibited by Law**
Officers shall obey all state and 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.

RR-116 **Conspiracy to Commit Conduct Prohibited by Law or Aggravated Conduct Prohibited by Law**
Officers shall not conspire with another person or persons to commit any act in violation of a City ordinance, state, or federal statute.

RR-117 **Disobedience of an Order**
Officers shall obey any order lawfully issued by a supervisory or command officer.

RR-118 **Deleted 10/2008**

RR-119 **Sleeping on Duty**
Officers shall not sleep on duty.

RR-120 **Appropriating Property**
Officers shall not appropriate any lost, found, seized, or forfeited evidential, City or Departmental property to their own use.

RR-121 **Off Duty in Uniform**
Officers, while off duty and in uniform, shall conduct themselves as if they were on duty.

RR-122 **Deleted 10/2008**

RR-122.1 **Respect for Fellow Officer**
Officers shall treat other members of the Department with the respect due to them as fellow officers.

RR-122.2 **Abuse of Fellow Officers**
Officers shall not be abusive toward a fellow officer, regardless of rank.

RR-122.3 **Insubordination**
Officers shall recognize and accept the authority of superior officers and shall refrain from uttering any disrespectful, mutinous, insolent, or abusive language toward a supervisor or command officer.

RR-123 **Assault of Fellow Officer**
Officers shall not threaten, strike, or assault any other officer of the Department.

RR-124 **Deleted 10/2008**

RR-125 **Punctuality (Scheduled Discipline)**
Members of the Department must be punctual in reporting for duty, attendance to all calls, requirements of duty, court appearances, and other circumstances where time is specified.

RR-126 **Amusement Places Restrictions**
Officers on duty shall not enter any place of amusement or liquor establishment except when necessary in the performance of duty or periodic inspection. (Officers are not prohibited from eating in restaurants which are licensed to serve liquor.)

RR-127 **Responsibilities to Serve Public**
Members shall serve the public by direction, counsel, and in other ways that do not interfere with the discharge of their police responsibilities. They shall respect the rights of individuals and perform their services with honesty, zeal, courage, discretion, fidelity, and sound judgment.

RR-128 **Deleted 10/2008**

RR-128.1 **Impartial Attitude**
Members, while being vigorous and unrelenting in the enforcement of the law, must maintain a strictly impartial attitude toward complainants and violators.

RR-128.2 **Impartial Attitude – Bias**

Members shall at all times consider it their duty to be of service to anyone who may be in danger or distress, regardless of race, color, creed, national origin, gender, age, sexual orientation, ancestry, physical or mental disability, marital status, military status, political affiliation, or religion.

RR-129 **Giving Name and Badge Number**

When a reasonable request is made for an officer's name, badge number or assignment, the officer shall provide a business card or the information in writing to any violator or person, unless such action is likely to jeopardize the successful completion of a police assignment. Business cards are required to be provided, without being asked, to any person that an officer has detained in a traffic stop if that person is not cited or arrested. Refer to OMS 118.02(4) for more information.

RR-130 **Deleted 10/2008**

RR-130.1 **Failure to Aid or Protect Fellow Officers – Unreasonable**

Members of the Department shall not unreasonably fail to assist and protect each other in restoring peace and order, apprehending offenders, or enforcing the law.

RR-130.2 **Failure to Aid or Protect Fellow Officers – Intentional or Reckless**

Members of the Department shall not intentionally or recklessly fail to assist and protect each other in restoring peace and order, apprehending offenders, or enforcing the law.

RR-131 **Deleted 10/2008**

RR-132 **Purchase of Forfeited Property**

Officers shall not purchase or attempt to purchase any item or property which they know has been seized by a criminal justice agency and legally forfeited. This shall include the purchase of a previously forfeited item or property which is offered for resale by a private retail vendor.

RR-133 **Deleted 10/2008**

RR-134 **Deleted 8/2004**

RR-135 **Deleted 4/2004**

RR-136 **Use of Tobacco Products in Police Facilities**

No member of the Classified Service, Career Service employee, contract employee of the City and County of Denver, or any other person shall use tobacco products in any police facility.

"Tobacco products," as used herein, include but are not limited to: burning cigarettes, cigars, cigarillos, and pipe tobacco.

The use of tobacco products means consumption by inhalation of any burning tobacco product or any other burning material manufactured, grown, or intended for use in a manner similar to that of cigarettes, cigars, cigarillos, or pipe tobacco.

"Police facility", as used herein, means any interior part of the Police Administration Building, District Station, or any satellite office used by any unit, section, bureau, or division of the Police Department. All supervisory and command officers shall strictly enforce this regulation and shall themselves be subject to discipline for their failure to do so.

RR-137 **Collective Bargaining Fair Share Fee**

Article IX, part 8 of the City and County of Denver Charter establishes collective bargaining for all members of the Classified Service of the Police Department and authorizes the negotiation of a fair share fee to be paid to the bargaining representative. As long as the Collective Bargaining Agreement is in force, all members of the Classified Service who are not dues paying members of the Denver Police Protective Association (DPPA), are required, as a condition of employment, to pay the designated fair share fee to the DPPA in accordance with the policy of the DPPA and Articles 5.2, 5.3, and 5.4 of the Collective Bargaining Agreement. Failure to pay the designated fair share fee to the Association will be grounds for disciplinary action, including termination.

RR-138 **Discrimination, Harassment, and Retaliation**

Members of the Department are expressly prohibited from engaging in any form of discrimination, harassment, or retaliation, based on any class or personal characteristic protected by federal, state, or local law, or otherwise violating the Department of Safety EEO Policy found in section 117.05, the Protected Information Policy found in section 117.06, the Biased Policing Policy Statement found in section 118.01, the Biased Policing Policy found in section 118.02, or the Equal Employment Opportunity for Individuals with Disabilities Policy found in section 505.13 of the Denver Police Operations Manual.

RR-139 **Deleted 10/2008**

RR-140.1 **Discourtesy**

Officers shall at all times be courteous and civil to the public. They shall be orderly, attentive, respectful, and exercise patience and discretion in the performance of their duties.

RR-140.2 **Verbal Assault and Abuse of the Public**

Officers shall not verbally assault, berate or verbally abuse any member of the public.

RR-141.1 **Prohibited Associations**

Officers shall not knowingly fraternize, associate, or continue to associate with any person whom the officer reasonably believes to be engaging in or planning to commit criminal activities where further contact with such individual(s) is reasonably likely to damage public trust; adversely affect the officer's credibility or integrity; or create the appearance of impropriety, a conflict of interest, or corruptive behavior. The only exceptions to this rule will be interactions in accordance with authorized DPD duties and relationships, including immediate family members, where the relationship has been approved by the Chief of Police or the Chief's designee as per RR-141.2.

RR-141.2 **Reporting of Prohibited Associations**

All potentially prohibited associations identified in RR-141.1 except those involving authorized DPD duties shall be promptly reported in writing to the Chief of Police or the Chief's designee. Failure to promptly report such an association shall subject an officer to possible disciplinary action. The Chief, upon receipt of the written report, shall make a determination whether further contact is reasonably likely to damage the public trust; adversely affect the officer's credibility or integrity; or create the appearance of impropriety, a conflict of interest, or corruptive behavior. If such a determination is made, the Chief or the Chief's designee may then reasonably prohibit or limit such future contacts. Otherwise, the Chief or designee may expressly authorize the continued association.

RR-142 **Soliciting Preferential Treatment**

Officers shall not attempt to use their position as Department members (including displaying a badge or identifying themselves as Department members): (i) to solicit or to attempt to solicit any preferential treatment not extended to the general public; or (ii) 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.

RR-200 REWARDS AND GRATUITIES

RR-201 **Deleted 10/2008**

RR-202 **Soliciting or Accepting a Bribe**
Officers shall not solicit or accept a bribe.

RR-203 **Accepting Gifts from Persons of Bad Character**
Officers shall not knowingly receive anything of value whatsoever or services, whether as a gift or as the result of purchase or trade, from suspects, prisoners, arrestees, prostitutes, or other persons whose vocations may profit from information obtained from the police, or from relatives, employees, or associates of any of these persons.

RR-204 **Soliciting, Accepting Gifts, Gratuities**
Individual members shall not solicit or accept any money, gift, gratuity, loan, present, or fee in connection with their duties as a Denver police officer or in representing the Denver Police Department, except as permitted by the Denver Ethics Code. With written approval of the Chief of Police, some recognized and sanctioned forms of soliciting funds or goods for a benevolent or charitable cause by members will be permitted.

RR-205 **Giving Testimonials, Seeking Publicity**
Members shall not give testimonials or permit their names or photographs to be used for advertising purposes without the approval of the Chief of Police. Members shall not seek personal publicity either directly or indirectly in the course of their employment.

RR-206 **Soliciting Business**
Members 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 Chief of Police.

RR-300 USE OF FORCE AND ARRESTS

RR-301 **Deleted 10/2008**

RR-302 **Personal Family Disputes**
Officers shall not take police action or make arrests in their own quarrels or in those involving their families or their neighbors, except under such circumstances as would justify them in using self defense or to prevent injury to another or when a serious offense has been committed.

RR-303 **Trivial Offenses**
Officers shall not make arrests for offenses when a warning or citation would suffice.

RR-304 **Traffic Enforcement When Not in Uniform**
Unless in uniform and operating a police vehicle, or performing police secondary employment in uniform, off-duty officers shall not arrest or issue citations, verbal warnings, or written warning citations for minor traffic offenses. Off-duty officers who witness a serious or flagrant violation will, when practical, summon on-duty personnel to execute a stop of the violator, and must confer with an on-duty supervisor to obtain approval prior to issuing a citation or arresting the violator.

RR-305 **Duty to Protect Prisoner**
Officers shall not physically abuse a prisoner and shall not allow a prisoner in their custody to be physically abused by any person.

RR-306 **Inappropriate Force**
Officers shall not use inappropriate force in making an arrest or in dealing with a prisoner or any other person.

RR-307 **Posting Bail**
Officers shall not post bail for any person arrested, except members of their own immediate families.

RR-308 **Aiding an Escapee**
Officers shall not aid or abet any prisoner to escape

RR-309 **Deleted 10/2008**

RR-309.1 **Suggesting Bondsmen or Attorneys**
Officers shall not suggest or recommend specific attorneys, bondsmen, or bail brokers to any person arrested, except to members of their own immediate families.

RR-309.2 **Suggesting Bondsmen or Attorneys for Profit**
Officers shall not, for personal gain or benefit, suggest or recommend specific attorneys, bondsmen, or bail brokers to any person arrested.

RR-310 **Mistreatment of Prisoners/Suspects**
Prisoners and suspects shall be treated in a fair and humane manner.

RR-311 **Deleted 10/2008**

RR-311.1 **Compromising Criminal Cases**
Officers shall not become involved in making any promises or arrangements between a suspect and his/her victim intended to permit the offender to escape the full penalty provided by the law. Nothing herein shall limit or restrain an officer from the reasonable exercise of discretion in the resolution of minor complaints.

RR-311.2 **Interference with Prosecution**
Officers shall not interfere with the courts or, for personal gain or benefit, use their official positions to make any arrangements for any suspect to escape prosecution.

RR-312 **Deleted 10/2008**

RR-312.1 **Interfering with Case Assigned to Other Officers**
Officers shall not interfere with any case assigned to another officer. Nor shall any officer interfere with the operation of any other division, bureau, section, or unit of the Department; other government agency; or any lawful private business.

RR-312.2 **Interfering with Internal Investigation/Questioning**
An officer shall not engage in conduct or have direct or indirect contact with any witness, complainant, or investigator which is intended to obstruct, compromise, or interfere with an internal investigation, regardless of which Denver Police or authorized city entity initiated or is conducting the investigation.

RR-312.3 **Failure to Provide a Statement**
Once ordered to do so, officers are required to provide a complete and truthful statement to any authorized Internal Affairs officer, supervisor, commander, representative of the Internal Affairs Division, the Executive Director of Safety's EEO Coordinator, or anyone else to whom the Executive Director of Safety has delegated the authority to compel statements.

RR-313 **Deleted 10/2008**

RR-314 **Providing Assistance Outside the City**
Officers shall not go outside the jurisdiction of the City and County of Denver during their regular duty shift except:

a. in cases of fresh pursuit;

b. when sent by proper authority;

c. when there appears to be an emergency or need for assistance; or

d. when authorized to do so by a supervisory officer.

RR-400 FIREARMS

RR-401 **Display of Firearms**
Officers shall not unnecessarily draw or display any firearm.

RR-402 **Careless Handling of Firearms or Less Lethal Weapons**
Officers shall not carelessly handle a firearm or less lethal weapon at any time.

RR-403 **Restrictions on Auxiliary Weapons**
Officers shall not carry auxiliary weapons, either on their person or in vehicles, without the approval of a commanding officer.

RR-500 COURT

RR-501 **Personal Appearance in Court**
Officers appearing in court as witnesses or for any other reason shall appear in the regulation uniform or acceptable business attire with dress shirt and tie.

RR-502 **Attendance In Court (Scheduled Discipline)**
All officers who receive subpoenas shall make proper return on each and will be held strictly accountable for appearance on a punctual basis. Officers unable to attend court, or those who expect to be late, must notify the Court Liaison Office.

RR-600 REPORTS, COMMUNICATIONS, EVIDENCE, AND DISCOVERY

RR-601 **Deleted 10/2008**

RR-601.1 **Communication of Confidential Information, Generally**
Members shall not impart official information of a confidential nature to anyone, except to those for whom it is intended, as directed by their commanding officer, or under due process of law. They shall not reveal to any private person the identity of an informant or any individual who has provided information upon the condition of anonymity.

RR-601.2 **Communication of Confidential Information that Jeopardizes a Police Action**
Officers shall not communicate, except to authorized persons, information which may jeopardize an arrest, police action, or investigation or which may aid a person to escape or attempt to escape.

RR-602 **Deleted 10/2008**

RR-603 **Destruction of Evidence**
Officers shall not recklessly or negligently destroy or remove evidence, nor shall officers intentionally destroy or remove evidence, except as legally permissible.

RR-604 **Deleted 10/2008**

RR-605 **Removal of Reports and Records**
Officers shall not, without proper authority, remove Department reports or records from the division or bureau where they are maintained.

RR-606 **Destruction of Reports or Records**
Officers shall not except on the order of the Chief of Police, destroy or permanently remove from its file any Departmental report or record.

RR-607 **Failure to Make, File, or Complete Official Reports**
Officers shall not fail to make, file, or complete required reports and records. Members shall make reports promptly, accurately, and completely in conformity with specifications of the Department. Members shall make all necessary reports before going off duty unless a supervisor/commander authorizes the delay.

RR-608 **Deleted 10/2008**

RR-609 **Altering Information on Official Documents**
Officers shall not unnecessarily change, alter, or otherwise distort the information on any official document.

RR-610 **Deleted 10/2008**

RR-611 **Deleted 10/2008**

RR-612 **Answer to Official Communications**
All official communications, telegrams, circulars, and other correspondence sent out from this Department shall conform to the format prescribed by the Chief of Police.

RR-613 **Unauthorized Use of Department Letterheads**
Officers shall not use Police Department letterheads except for authorized Departmental correspondence.

RR-614 **Publication of Articles**
Articles prepared for publication in which the member identifies themselves as a DPD member must be submitted in their entirety to the Chief of Police for approval prior to publication and be in the best interest of the Department. Materials obtained or created during a member's official duties remain the property of the Denver Police Department. Members must articulate the intended purpose and obtain prior approval from the Chief of Police before using any Department materials such as photos, videos, audio recordings, reports, badge images, and photos of department personnel, equipment, or buildings for training or publication purposes. Articles include, but are not limited to, items published in books, magazines, newspapers, and other periodicals as well as items posted in electronic sharing sites such as blogs, Facebook, MySpace, Twitter, or other similar online journals or news sites.

RR-615 **Deleted 10/2008**

RR-616 **Police Bulletin**
Members of the Classified Service shall familiarize themselves with the information printed in the Police Bulletin.

RR-617 **Compliance with Discovery Requirements**

Officers shall document and protect all information and evidence gathered and collected during any arrest or criminal investigation. Members shall provide all files, books, papers, documents, photographs, audio and video recordings, and tangible objects collected and created as part of an arrest or criminal investigation, to the investigative case file or Property Management Section under the assigned general offense (GO) number.

RR-700 POLITICAL ACTIVITIES

RR-701 **Deleted 10/2008**

RR-702 **Using Police Position to Gain Political Office**
Officers, while seeking or holding political office shall not appear in that capacity in the Denver Police uniform or use their positions as police officers to gain political office or carry out the duties thereof.

RR-703 **Soliciting Money for Political Purposes**
Officers 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 police duties.

RR-704 **Soliciting for Promotion, Appointment**
Officers shall not solicit petitions for promotions, appointments, or change of duty, or promote any political influence to effect such an end for themselves or any other member of the Department.

RR-705 **Deleted 10/2008**

RR-706 **Deleted 10/2008**

RR-800 UNIFORMS AND EQUIPMENT

RR-801 **Deleted 10/2008**

RR-802 **Uniform Restrictions While Off Duty**
Off duty officers are restricted in the use of their uniforms as follows:

a. They may wear their full uniform in going to and from work.

b. When wearing civilian headgear or when bareheaded and wearing partial uniform, officers shall wear a civilian coat as their outermost garment.

c. No civilian attire shall be worn with the uniform cap or helmet.

RR-803 **Uniform Restrictions for Officers Under Suspension**
The uniform shall not be worn while an officer is under suspension.

RR-804 **Exercise of Authority While Under Suspension**
Officers shall not exercise police authority while under suspension.

RR-805 **Equipment Carried on Person**
Officers shall carry their badge and I.D. Card and be armed at all times, except as provided by the Operations Manual.

RR-806.1 **Alteration of Badge Prohibited**
The badge shall not be altered, exchanged, or transferred except by order of the Chief of Police. Members shall not use another member's badge or official police credentials without permission of the Chief of Police.

RR-806.2 **Use of Badge by Person other than an Officer**
Officers shall not permit any person not appointed a member of the Police Department to use an official badge or credential at any time.

RR-807 **Loss or Damage to Badge**
When a member's badge is lost or damaged, that member shall report the loss or damage through channels in writing to the Chief of Police. The cost of replacement or repair will be charged to the member unless he/she can show that such loss or damage was not incurred through personal negligence.

RR-808 **Equipment and Property Restrictions on Use**
Officers are prohibited from using Police Department property or vehicles in the conduct of their own personal or private affairs without approval of a Commander or the Chief of Police.

RR-809 **Rough or Careless Handling of City, Departmental or Outside Agency Property**
(Scheduled Discipline as it relates to Preventable Accidents)
Members shall use care in handling City, Departmental or outside agency property and shall report immediately any that is lost, damaged, or in bad order.

RR-900 VEHICLE OPERATION

RR-901 **Deleted 10/2008**

RR-902 **Department Vehicle Operation**
Officers shall not allow any non-member of the Classified Service to operate any vehicle of this Department without permission of their commanding officer.

RR-1000 CIVIL CASES

RR-1001 **Testifying in Civil Cases**
Officers shall not testify in civil cases unless legally summoned.

RR-1002 **Service of Civil Process**
Officers shall not serve civil process except those initiated by the City or as required by the Colorado Revised Statutes and specifically authorized by Departmental procedure.

RR-1003 **Initiation of Civil Cases**
Officers shall not initiate civil action arising out of their official duties without first notifying the Chief of Police.

RR-1004 **Testifying for Defendant**
Any member 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.

RR-1100 LEAVE, SICKNESS AND INJURY

RR-1101 **Reporting Absence Prior to Roll Call**
Officers shall report for duty at the time and place specified and in the attire and with the equipment specified by Departmental orders or a supervisory officer, unless absence is authorized by their supervisory officer.

RR-1102 **Reporting for Duty**
Unless otherwise excused, officers shall report for duty when scheduled or, when off duty, immediately upon receipt of order to do so.

RR-1103 **Constructive Resignation**
Failure to report for duty within five (5) days following the expiration of a leave of absence without just cause or being absent without leave for a period of five (5) days without just cause shall be construed as a constructive resignation as provided in the Civil Service Rules.

RR-1104 **Location When Ill**
Officers who are absent from duty and using sick leave time shall be required to keep their commanders informed of their locations and be available by phone or in person at those locations.

RR-1105 **Reporting During Illness or Injury**
Officers shall not fail, while off duty due to illness or injury except while hospitalized, to contact their unit commander at three-day intervals to report condition and progress of recovery, unless the reporting is excused by their commanding officer.

RR-1106 **Feigning Illness or Injury**
Officers shall not feign illness or injury in an effort to avoid duty.

RR-1107 **Physical or Mental Examination**
Officers who have been ordered to submit to physical or mental examination shall do so in accordance with the directions of the Chief of Police.

RR-1108 **Release of Medical Information**
All officers shall authorize their attending physician to release to their unit commander and the Chief of Police information regarding their condition and ability to perform certain duties.

RR-1109 **Deleted 10/2008**

RR-1200 P.O.S.T. Certification of Officers

RR-1201 **P.O.S.T. Certification Required**

All officers of the Denver Police Department shall hold current certification by the Colorado Peace Officers Standards and Training Board. See C.R.S. §24-31-303 and §24-31-305. No officer shall commit an act that is defined by the P.O.S.T. Board as an offense that would disqualify the officer from maintaining his/her P.O.S.T. certification.