

DISCOVERY ORDER

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LEONARD DURAN, Appellant,

v.

DEPARTMENT OF SAFETY, DENVER SHERIFF'S DEPARTMENT,  
and the City and County of Denver, a municipal corporation, Agency.

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This is an appeal of Appellant Duran's suspension from his employer, the Denver Sheriff's Department (Agency) for alleged violations of specified Career Service and Agency rules. The Agency alleges, in relevant part to this order, that Duran improperly used his private cell phone on duty, and used Agency computers and phones to engage in secondary employment. Duran seeks Agency records of discipline of other deputies for those same rule violations. The Agency objects to such discovery.

The Agency is correct in its statement that, unlike the Civil Service Commission, the Career Service Authority is not use comparative discipline. Notwithstanding that fact, Duran's request reconciles with the Agency's statement.

The jurisdiction of the Hearing Office includes the authority to hear and decide all evidence relevant to discipline, including a claim that the penalty was unfair under the Career Service Rules. In re Diaz, CSB 72-06 (9/20/07). An appellant may challenge the level of discipline when it is dissimilar to penalties imposed on other employees for highly similar violations, by the same decision-maker using the same standards of conduct, in a relevant period. See in re Ford, 38-14A, 3-6 (12/17/15); In re Koehler, CSA 113-09, 3 (Order 1/27/2010).

Based upon those standards, Appellant has set forth good cause to grant RFPs 4 – 6, which the Agency shall produce on or before August 24, 2016. However, insofar as the requests seek all discipline assessed under the general CSR governing neglect and other catchall Agency rules over an 18-month period, they are overbroad. Accordingly, permitted discovery shall include only discipline assessed under DO 2710.1F, 1540.1H, and RR 300.24, imposed between July 1, 2015 and July 1, 2016.

DONE August 17, 2016.



Bruce A. Plotkin  
Career Service Hearing Officer