

DELIBERATIVE PROCESS
NOT PRODUCED
CONDUCT REVIEW OFFICE
DENVER SHERIFF DEPARTMENT

Case Number: S13-0220

Subject Officer: Deputy Edward Keller, S01082

Assignment: DDC

Summary of Complaint

On August 10, 2011, Inmate Jamal Hunter filed an Inmate Grievance (10-81825) stating; On July 31, 2011, at approximately 3:30 or 4:00pm Mr. Keller an officer for the Denver Sheriff Department lost control of himself and attacked me, choking, punching and body slamming me without cause. As a result I was Tasered twice by Sergeant Mazzei. The video tape evidence will show that I was not resisting or refusing and orders; it will show that Officer Keller simply lost control of himself. Please review video tape footage for the date and time of the incident. Also review my written statements given to Captain Romero.

Statement of Fact

On July 31, 2011, Inmate Jamal Hunter was housed in the 4D Special Management Unit located in the Downtown Detention Center (DDC).

At approximately 16:31:50 hours Hunter is observed on video surveillance footage stepping out of the dayroom area, entering the area of the officer's desk and speaking with Deputy Edward Keller. Deputy Keller is leaning on the wall in front of the officer's desk in a casual stance. Keller listens to Inmate Hunter who appears to be explaining something in an animated fashion. Reports indicate that Hunter is calling Deputy Keller a "racist mother fucker and you need to treat me better".

Deputy Keller signals Hunter by pointing his arm with an extended finger pointing at the housing unit. In Keller's incident report he stated that Hunter was requesting to see the nurse and he [Hunter] was told they had been called and would see him when the dispensed medication. Keller was ordering him to lock down (go back to his cell). Keller is observed walking over to Hunter and grasping the sleeve of Hunters jail uniform. Hunter begins to walk but is observed dragging his feet somewhat.

At 16:31:55 [camera view-16-31-50-047] Hunter is moved through the open cell door of 4D-101, Hunter turns and appears to be catching his balance when Keller places both hands on the neck area of Hunter and pushes Hunter down on the bunk. Deputy Thomas Ford enters the cell and takes hold of Hunters right arm.

At 16:31:59 Keller releases his right hand hold and moves it to the back of Hunters neck.

At 16:32:04 Hunter is moved to the floor where is observed actively resisting the officers. Sergeant Mazzei is observed entering the cell with a Taser in his right hand.

At 16:32:09 Officer's Ness and Enriquez enter the cell to assist.

At 16:32:11 Sergeant Mazzei shoots the Taser from approximately 12 inches from the back Hunter, the probes stick to the shirt and the skin is not penetrated.

At 16:32:12 deputy Enriquez applies his Orcutt Police Nunchaku (OPN's) to Hunter's left ankle.

At 16:32:26 Keller applies handcuffs to Hunter and he is helped to his feet by several officers.

This document and its contents are confidential and protected from public disclosure pursuant to the "deliberative process privilege" and must be maintained in accordance with established department procedures.

CONFIDENTIAL

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The total time from Deputy Keller gasping the shirt of Hunter until the time Hunter is helped to his feet is approximately one minute.

Inmate Hunter is escorted to the Medical Unit on the third floor without further incident.

The medical report states; Pt was Tased due to inappropriate actions. Prongs were in pt shirt but did not penetrate skin. Pt has scratches on right shoulder, bleeding sore on right hand.

The video indicates that when Inmate Hunter was pushed into the cell he turned to face Deputy Keller. When Hunter turned it appears that he is catching his balance when he moves one foot toward the officer, Hunter does not move his arms. Keller is observed taking control of Hunter by placing both hands on the neck area.

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Analysis and Conclusions

Specification No. 1:

Use of inappropriate force

Rationale for Finding

The degree of force which is necessary and objectively reasonable under the circumstances for the incident.

Finding

The video footage indicates that Deputy Keller did take hold of Inmate Hunter by the neck/throat area.

Matrix Analysis

300.22 Inappropriate Force

Deputy sheriffs and employees shall not use inappropriate force in making an arrest, dealing with a prisoner or in dealing with any other person.

Conduct Category – D-F

Conduct Category Determination – D

Preliminary Discipline Level – 5

Rationale: Deputy Keller's action during this incident involved a demonstrable serious risk to the inmate.

Prior Discipline

Date of current incident: July 31, 2011

Time Frame for considering prior sustained misconduct: 7 years

Number of prior relevant sustained cases within the time frame: *****

Case Number: 12-02072

Specification: Sexual Harassment, Full Attention to Duty, Discrimination, Conduct Prejudicial

Actual Penalty 52 Day Suspension

Date of Manager's Order: 9/11/2012

Discipline Category E

Rationale for Category: See Sheriff Disciplinary Recommendation (on IaPro 12-02072)

Discipline Level 6 + 5 + 5 + 3 = 52 days

Revised Discipline Level Based on Prior Discipline: 6

Mitigating or Aggravating Circumstances: The circumstances surrounding this rule violation are neither mitigated nor aggravated.

Final Recommendation for This Specification

Conduct Category D

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Discipline Level	6
Penalty	30 day suspension
Penalty Range	Presumptive

Specification No. 2:

Disobedience of Rule

As it pertains to Denver Sheriff Department Order 5011.1L, Use of Force

2. **Policy:** It is the policy of the Denver Sheriff department (DSD) that officers use physical force only as prescribed by the Colorado Revised Statutes (CRS) and internal department standards to perform any legitimate law enforcement or detention related function. The amount of force used will be reasonable and appropriate in relation to the treat faced to accomplish a lawful objective. In all cases, force will be de-escalated once the legitimate function is achieved or the resistance has ceased.

Rationale for Finding

The degree if force which is necessary and objectively reasonable under the circumstances for the incident.

Finding

The video footage indicates that Deputy Keller did take hold of Inmate Hunter by the neck/throat area.

Matrix Analysis

RR- 300.19.1 Disobedience of Rule

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

As it pertains to:

Department Order 5011.1 – Use of Force

Conduct Category – A-F

Conduct Category Determination –D

Preliminary Discipline Level – 5

Rationale: Deputy Keller's action during this incident involved a demonstrable serious risk to the inmate.

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Discipline Category *

Rationale for Category: S See Sheriff Disciplinary Recommendation (on IaPro 12-02072)

Discipline Level E

Revised Discipline Level Based on Prior Discipline: 6

Mitigating or Aggravating Circumstances

The circumstances surrounding this rule violation are neither mitigated nor aggravated.

Final Recommendation for This Specification

Conduct Category D

Discipline Level 6

Penalty 30 Day Suspension

Penalty Range Presumptive

Commander Recommendations

	R&R	Finding	Category	Level	Range	Penalty
Spec #1	300.22	Sustained	D	6	D-F	30 Day Suspension
Spec #2	300.19.1	Sustained	D	6	A-F	

By: Major Mike Horner