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January 21, 2015

Franklin Gale S89015
Deputy Sheriff Captain
Downtown Division
Denver Sheriff Department

Re: DPD IAB Case #ICS2014-0004

Captain Gale:

This is official notification that, after an independent determination of the Office of the Executive Director of the Department of Safety, you are being terminated effective immediately for misconduct which violated the following Career Service Rules, the City Charter, and the Denver Revised Municipal Code, Executive Orders or other applicable legal authority. This termination is for misconduct that violated the Career Service and Sheriff Department Rules set forth below and is discussed more fully in the section of this letter entitled Departmental Determinations of Discipline (pgs. 7-21).

Career Service Rule 16-60 Discipline and Dismissal:

The following may be cause for discipline or dismissal of a Career Service employee:

- A. Neglect of duty.
- E. Any act of dishonesty, which may include, but is not limited to:
 - ...
 - 3. Lying to superiors or falsifying records with respect to official duties, including work duties, disciplinary actions, or false reporting of work hours.
- J. Failure to comply with the lawful orders of an authorized supervisor or failing to do assigned work which the employee is capable of performing.
- L. Failure to observe written departmental or agency regulations, policies or rules.

As it pertains to:

Denver Sheriff Departmental Rules and Regulations

PREAMBLE

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

RR 200.4.2 – Commission of a Deceptive Act

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

Under the DSD disciplinary matrix, a violation of DSD Rule 200.4.2 is a conduct category F violation.

RR 200.13 – Disobeying a Lawful Order

Deputy sheriffs and employees shall not disobey, neglect, or refuse to obey any lawful order of a supervisor, including supervisory orders relayed by a person of lesser or equal rank.

Under the DSD disciplinary matrix, a violation of DSD Rule 200.13 is a conduct category C through F violation.

RR 300.11.6 – Conduct Prejudicial

Deputy sheriffs and employees shall not engage in conduct prejudicial to the good order and effectiveness of the department or conduct that brings disrepute on or compromises the integrity of the City or the Department or conduct unbecoming 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.

Under the DSD disciplinary matrix, a violation of DSD Rule 300.11.6 is a conduct category A through F violation.

- Z. Conduct prejudicial to the good order and effectiveness of the department or agency, or conduct that brings disrepute on or compromises the integrity of the City.

PRE-DISCIPLINARY MEETING

You were served with a pre-disciplinary letter regarding this matter on November 19, 2014. A pre-disciplinary meeting was held on Tuesday, January 6, 2015, at 9:00 a.m., in the Denver Sheriff Department (DSD) Conduct Review Office Conference Room, located at 1331 Cherokee Street, Denver, Colorado, 80204.

The purpose of this meeting was to allow you to correct any errors in the Agency's information or facts, to tell your side of the story, and to present any mitigating information as to why possible disciplinary action should not be taken against you. Present at this meeting was Sheriff Elias Diggins. Present from Denver Police Department (DPD) Conduct Review Office was Commander Michael Battista. Present from the Executive Director of Safety's Office was Mr. Jess Vigil and Ms. Shannon Elwell. Present from the City Attorney's Office was Ms. Karla Pierce. Present from the Office of the Independent Monitor was Mr. Nick Mitchell. You attended this meeting with Mr. Don Sisson as your representative.

Sheriff Diggins started the meeting by giving you the opportunity to make a statement. At this time, you read a statement that you had prepared prior to the meeting in order to explain your side of the story. In your statement, you stated that on June 17, 2014, you were informed that you were the subject of an investigation in which it was alleged that you gave special treatment to Captain Gillespie when she was arrested and incarcerated at Downtown Detention Center (DDC) for domestic violence on June 16, 2014. You stated you were disheartened by the decision to conduct this investigation, and disappointed in some of the aspects of how it was conducted.

You stated that there were problems and issues related to how Captain Gillespie was processed and handled at the DDC, and there were some deviations from normal protocol. You further stated that, "[a]s a Division Chief in the Sheriff Department, I feel that it was my responsibility, and within my authority, to look at these issues and determine why they happened and who, if anyone, had caused the problem." You further stated that the main reason for you to be involved was to look at policy issues to see how these issues would be dealt with in the future, which you characterized as common for how division chiefs operate. You stated that you had begun to be engaged in that process when you were advised that you were the subject of an investigation. You stated that you knew that preclude you from continuing to examine what had occurred. You further stated that it was known by the complainant in this matter, Captain Blair, that you were looking into what had occurred prior to her filing a complaint, and that you were looking at her actions as well. You stated that Captain Blair was the captain of the intake unit at the time, and also that she knew that you had spoken to the records sergeant.

You stated that you were disappointed in DPD investigating the matter, despite Captain Blair's husband being assigned to DPD Internal Affairs Bureau (IAB). You called this a serious conflict of interest. You further stated that there were issues that were not explored that go to the stated reasons for the allegation of special treatment against you, including (1) no interviews of DDC staff working in records; (2) no interviews of DDC staff working in the release section; and (3) no interviews of DDC staff working in the property section. You stated that these are all of the places that you had started to look at because they are all an integral part of the processing of

bringing an inmate in and out of the facility. You stated that, during this investigation, no one looked at the conduct related to these areas, even when deviations in procedure were brought to the investigator's attention. You further stated that your initial look into this matter, prior to being informed that you were being investigated, found that Captain Blair had taken possession of Captain Gillespie's records from the records section as well as Captain Gillespie's release documents, early on the morning of June 16, 2014, which you stated is a deviation from normal protocol. You stated that these types of deviations cause confusion in the process and in the facility.

You then stated that Sergeants Velez and Rolando were involved with changing Captain Gillespie into civilian clothes, which was also a deviation from normal protocol, and that no one looked into who authorized that change. You stated that both Sergeants Velez and Rolando were clearly implicated in this deviation, but there was no attention or follow-up on this subject. You further stated that, when there were attempts to keep Captain Gillespie from having to change into inmate clothing, you specifically directed that Captain Gillespie must wear an inmate uniform.

You then stated that, "coincidentally," Sergeant Velez's statement seems to be the reason you're accused of committing a deceptive act, as it relates to Captain Gillespie's release from the courtroom, as Sergeant Velez's statements conflict with yours. You stated that you are not the only person whose statement is in conflict with Sergeant Velez; you said that there were several people who do not support Sergeant Velez's claim that you directed Sergeant Velez to release Captain Gillespie directly from the courtroom. You stated "I did not give such direction to Sergeant Velez, nor did I give her direction in regards to any other activity related to this matter." You then stated that, per DSD policy, it is normal protocol for IAB to oversee the case of an employee who had been arrested. You stated that IAB acts with the authority of the Sheriff, and therefore, you would be unable to give direction to Sergeant Velez.

You ended your statement by saying that this investigation concerned special treatment of Captain Gillespie during her incarceration; however, at any early point in the investigation, the case stopped being about special treatment and became about commission of a deceptive act. You stated that you were the target for having allegedly committed a deceptive act. You stated that this allegation is based on the statements of persons who deviated from normal protocols, which constituted special treatment of Captain Gillespie. You reiterated your disappointment. You then spoke of information that you believe was improperly included in the pre-disciplinary letter for the purpose of prejudicing the decision maker and making you look guilty. You stated that those prior cases against you were decided in your favor for a reason. You also stated that the pre-disciplinary letter did not mention any commendations or awards of yours, and ended with the statement that you are one of the most highly decorated members of the Department.

Your attorney, Mr. Don Sisson, then had the opportunity to make some comments, and began by stating that none of the facts support a finding of a policy violation. Mr. Sisson also opined that any discipline against you would be an abuse of discretion. Mr. Sisson discussed certain portions of the pre-disciplinary letter where it could be inferred that you were lying, and made factual arguments to the contrary. Mr. Sisson then stated that the thrust of this investigation was whether you gave an order that Captain Gillespie could walk out of the front door of the courtroom. Mr. Sisson stated that it wasn't possible for you to have given that order, and cited Department Order 1530.3A. Mr. Sisson stated that, pursuant to this policy and procedure of the Department, Sergeant Velez acted with the same authority as the Sheriff, and that it was her

obligation to intervene and object when necessary. Mr. Sisson stated that the evidence supported the fact that Sergeant Velez was aware of her authority. Mr. Sisson then claimed that you never gave the order to release Captain Gillespie directly from the courtroom, and stated that there were multiple people, as well as video evidence, that contradicted Sergeant Velez.

Mr. Sisson spoke of your prior discipline referenced in the letter, and requested that your exemplary performance evaluations and numerous commendations be taken into consideration.

Mr. Sisson then argued that any preferential treatment that was given to Captain Gillespie was attributable to the actions of Sergeants Rolando and Velez, and not to you. Mr. Sisson further stated that there were multiple violations of the Department's own complaint and disciplinary procedures in this matter. Mr. Sisson ended his statement by citing the First Amendment as protecting union activity and speech. Mr. Sisson stated that you are the most powerful voice in the Fraternal Order of Police (FOP) union statewide, and one of the most powerful voices nationwide. Mr. Sisson stated that it is no secret that there is change afoot in DSD, and argued that it seems that the purpose of the whole investigation is to silence your FOP voice because you don't necessarily agree with the "powers that be" about the changes that need to be made in the Department. Mr. Sisson stated that he sees this case as clear retaliation against you, and closed by saying "Not to threaten anybody in any way, shape, or form, but I do want to let you know, should you move forward with any discipline against my client, there will be a First Amendment lawsuit and you will be sued in federal court and we will see what a jury says two years from now."

You then made a closing statement which you stated related to why you weren't lying about releasing Captain Gillespie from the courtroom. You stated that it was "pretty clear" that Captain Gillespie's release by regular means would have meant the difference of a few minutes. You stated that, when you discovered that "things weren't done the way they should have been done," you were the one who made the notification to bring Captain Gillespie back to the DDC. You stated that the only thing Captain Gillespie had to do at that point was sign her bond, and that she had already done everything else. You stated that, if you had directed that Captain Gillespie be released, you would have just admitted it. You said that you knew lying was a Category F offense, and that if you had given that direction, you would have owned up to it.

You stated that one of the reasons why you would have been able to admit that you gave the direction to release Captain Gillespie was because Captain Gillespie was in her civilian clothes. You said that you thought it was odd and thought that Captain Gillespie had already been through the release process. You further stated that, when you went into the courtroom, the attorneys were discussing the modification to the protective order. You stated that Mr. Reid Elkus had asked you earlier that day if you would be available to come in and enlighten the judge about how the Department has handled such a situation in the past, and if a modification to the order was something that the Department could accommodate. You stated that arraignments go very quickly, and then described the process. You stated that an inmate comes up, the judge states what the inmate is charged with, the judge asks how the inmate pleads, a plea is entered, and the judge gives the inmate his or her bond. You stated that, when you walked into the courtroom, this is not what was transpiring, and Captain Gillespie was in her civilian clothes. You stated that you thought that the arraignment must have already been completed. You stated that, if you had directed her release, you would have had that to rely on and you would simply have given that as a reason. You stated, however, that you did not give any direction because you realized you didn't have the authority to give direction to the IAB

sergeant. You stated that the only reason you were in the courtroom was not to give direction, but because of your interest as a friend and concern as a chief executive that, if Captain Gillespie couldn't carry a weapon, she wouldn't be able to work and the agency would have had a problem. You concluded by stating that you thought the Department needs to look at the policy concerns of how these things are handled.

Your previous discipline includes:

<u>Date</u>	<u>Type of Violation</u>	<u>Discipline</u>
9/14/2005	Disrespectful Behavior	Written Reprimand

Although you have no additional prior discipline on record, you were terminated in 1991 for dishonesty, assaulting an inmate, and intimidating witness deputies. You were likewise terminated in 2000 for dishonesty, assaulting an inmate, and intimidating witness deputies. Both terminations were reversed on appeal.

The Department has great concern regarding your ability to act responsibly and to conduct yourself appropriately while on duty. It is clear that your conduct has been unprofessional and in violation of the Department's policies and procedures. Your actions have also breached several of the Department's Guiding Principles of honesty, respect, fairness, openness, teamwork, judgment, sensitivity, personal leadership, integrity, accountability, and professionalism. Your conduct has compromised the mission of the Department. Termination of your employment is necessary to protect the integrity and professionalism of the Department and to protect the City and County of Denver from any liability that could arise from your continued employment.

Please be advised that you may appeal the discipline imposed and these determinations in accordance with Career Service Rule 19, Appeals. You may also initiate dispute resolution pursuant to Career Service Rule 18, Dispute Resolution.

Sincerely,



Shannon Elwell
Civilian Review Administrator

cc: Career Service Authority, Records Management Division
IAB File
Administration

DEPARTMENTAL DETERMINATIONS OF DISCIPLINE

Captain Frank Gale, S89015
ICS2014-0004

After a thorough review of the Internal Affairs Bureau investigation, the Executive Director of the Department of Safety's Office has made the following findings of fact and determinations of discipline.

SUMMARY OF FACTS

The preponderance of evidence establishes the following summary of the facts and circumstances surrounding the conduct upon which discipline is being imposed.

On June 15, 2014, at approximately 12:00 pm, DSD Captain Sonja Gillespie, while off duty, was placed under arrest by the DPD for an alleged domestic violence incident. The events that followed pertaining to her treatment as an inmate in the DDC were subsequently referred to DPD IAB for an internal investigation of possible rule violations.¹ The investigative file was reviewed, including but not limited to video footage, audio interviews, and relevant paperwork.

After being advised of Captain Gillespie's arrest, former Sheriff Wilson informed then Acting Division Chief Frank Gale² and instructed Chief Gale to ensure that the handling of Captain Gillespie's arrest was done by the book, and that preferential treatment was not to be given to her. Former Sheriff Wilson further stated to Chief Gale that former Sheriff Wilson would not be involving himself in any decisions relating to this case, due to the fact that former Sheriff Wilson used to be married to Captain Gillespie and therefore perceived a potential conflict of interest. In Chief Gale's interview with DPD IAB, Chief Gale acknowledged that he received instruction from former Sheriff Wilson not to give Captain Gillespie preferential treatment. Specifically, Chief Gale stated to DPD IAB that former Sheriff Wilson had ordered Chief Gale to ensure that "this must be played by the book," "she can't get anything special," and to "pass this on."

After being arrested, Captain Gillespie was taken to District Five for processing, and DSD IAB Sergeant Velez³ responded to the same. When she arrived at District Five, Sergeant Velez asked Captain Gillespie if Captain Gillespie wanted her to get in touch with a lawyer, to which Captain Gillespie responded "Yeah, I want to get a hold of FOP." Sergeant Velez then asked Captain Gillespie whom from FOP she wanted to contact, and, after initially suggesting Captain Gettler, Captain Gillespie stated "No, no. Let's just call Gale himself." Sergeant Velez and Captain Gillespie then called Chief Gale from District Five to let him know that they were going to pick up Captain Gillespie's gun from her home and take Captain Gillespie to the Downtown Detention Center (DDC). Sergeant Velez then accompanied other law enforcement officers to

¹ DPD IAB investigated the matter due to a conflict within the Sheriff Department. The underlying facts of Captain Gillespie's arrest were investigated separately by DPD IAB, under case number ICS2014-0003.

² At all relevant times herein, Captain Gale was serving as an acting Division Chief for the Denver Sheriff Department, assigned to the Downtown Detention Center (DDC). A Division Chief is the second highest rank in the Department, below only that of Sheriff. Captain Gale is referred to herein as "Chief Gale" so as to reflect his rank and status at the time of the events.

³ Sergeant Velez has never worked Intake or Release before. At the time of the event, she was fairly new to working in DSD IAB.

Captain Gillespie's home to retrieve Captain Gillespie's service weapon, after which Sergeant Velez took custody of Captain Gillespie and transported her to the DDC.

Before Sergeant Velez and Captain Gillespie arrived at the DDC, Chief Gale telephoned Captain Chris Brown, the Watch Commander at the DDC, and advised him of the matter. Chief Gale stated to DPD IAB that he then gave directions to Captain Brown "not to do anything special" for Captain Gillespie, and to "process her the same way." Chief Gale also acknowledged the need to protect Captain Gillespie while she was incarcerated, due to her status as an officer. Captain Brown, in his interview with DPD IAB, acknowledged Chief Gale's orders to have Captain Gillespie processed through the DDC "like any other inmate."

When Captain Gillespie and Sergeant Velez arrived at the DDC, Sergeant Velez accompanied Captain Gillespie through the intake booking process. Sergeant Velez then telephoned Chief Gale again, because Captain Gillespie had asked if she had to be "dressed out"—that is, required to dress in inmate attire rather than remain in civilian clothing. Sergeant Velez spoke to Chief Gale and Chief Gale confirmed that Captain Gillespie would have to be dressed out. Captain Brown likewise instructed his subordinates that Captain Gillespie was to be dressed out; Captain Brown went down to Intake to inform Captain Gillespie of this himself, but by the time he arrived, Captain Gillespie informed him that she was already dressed out.

That evening, Captain Gillespie was housed on the third floor, in three medical, due to her classification as a special management prisoner and concerns for her safety and the potential effects on the crowded inmate population. At approximately 6:00 pm, prior to leaving for the evening, Captain Brown and Chief Gale visited Captain Gillespie's cell and had a brief conversation, during which Captain Gillespie made a request that Deputy Eric Givens escort her to court the next day and then transport her home. Captain Brown stated that he said it was okay with him, provided that Chief Gale was okay with it and that Deputy Givens' unit could spare him. Chief Gale then stated that he didn't have a problem with Deputy Givens escorting Captain Gillespie to court, and subsequently transporting her home.

Captain Gillespie then spent the night in her cell at the DDC, and was scheduled for a court appearance the following day, June 16, 2014. On the morning of June 16, 2014, at approximately 8:30 am, Sergeant Velez received a phone call from the court security deputy, Deputy Carla Lopez, in Courtroom 2300, informing Sergeant Velez that Captain Gillespie's court date had been moved to an earlier time.⁴ Deputy Lopez also contacted Deputy Givens to inform him of the time of the proceeding, as a courtesy to Captain Gillespie.

At approximately 7:00 am that morning, Chief Gale visited Captain Gillespie at her cell in the DDC to check on her wellbeing. Chief Gale then met Captain Gillespie's attorney, Mr. Reid Elkus, in the lobby and had a discussion with Mr. Elkus about potential arguments that could be made on Captain Gillespie's behalf regarding a potential modification of a restraining order. Chief Gale indicated that he would be available to discuss the matter with the judge. Chief Gale

⁴ Captain Gillespie's arraignment had originally been scheduled for later that day. Captain Brown informed DPD IAB that the courtroom deputies had made the arrangements for an earlier court time, and that the judge had ordered the time change. Captain Brown told DPD IAB that he had stated to the courtroom deputies "If we can do it between dockets, perfect, and there would be no other inmates in the gallery or the courtroom at that time." Captain Brown also told DPD IAB that this is a typical process for special management prisoners in the DDC.

then escorted Mr. Elkus to a private room, and called up to the third floor to inform them that Captain Gillespie's attorney was waiting to see her before court.⁵

At approximately 10:30 am, Captain Gillespie appeared in courtroom 2300 for her arraignment, wearing civilian clothing.⁶ Chief Gale also appeared in courtroom 2300 for Captain Gillespie's arraignment; in fact, video evidence shows that he arrived before Captain Gillespie, and spoke briefly to Mr. Elkus. Chief Gale acknowledged in his IAB interview that courtroom 2300 is "the arraignment courtroom." Transcripts of the June 16, 2014 court proceeding in courtroom 2300, as well as audio and video recording of that proceeding, reveal that Chief Gale was present for the entirety of the arraignment, including the portion in which Mr. Elkus waived the reading of the rights and charges, and the portion in which Captain Gillespie was issued a PR bond with basic pre-trial services. Chief Gale's stated intention for attending was to assist with a potential modification of the restraining order; however, the evidence shows that Chief Gale never once contributed to the proceeding, and instead merely stood in close proximity to Captain Gillespie. At all times, Chief Gale was the highest ranking DSD officer in the courtroom.

At the conclusion of the arraignment, Sergeant Velez approached Chief Gale and asked "So what's the next step? What's the process?", to which Chief Gale responded, "She can go. She can walk right out the door." Sergeant Velez then said to Chief Gale "Are you sure?" and Chief Gale replied "Yeah, I'll walk out with you guys." Sergeant Velez is unequivocal in her statements to DPD IAB that Chief Gale made the decision to allow Captain Gillespie to leave straight from the courtroom and out of the facility to a waiting vehicle, and not to be processed through release, stating "Yes. That is correct. He was the one that ultimately made the decision."

Video evidence shows Chief Gale and other DSD personnel having a conversation at the conclusion of the arraignment, during which Chief Gale gestured multiple times toward the front door of the courtroom, away from the internal door that leads back into the secure area of the DDC. Video evidence also shows Captain Gillespie gesturing toward the front door of the courtroom, and an unknown deputy, presumably either Deputy Givens or Travis, making a circular motion above his head. Video evidence then shows Chief Gale, Mr. Elkus, Captain Gillespie, Sergeant Velez, and said unknown deputy exiting through the public doors to the courtroom, down the stairs, into the lobby, and out the front doors of the DDC.

Video evidence further shows Chief Gale, Captain Gillespie, said unknown deputy, and Sergeant Velez remaining outside of the DDC for approximately five minutes. During this time, Chief Gale told Captain Gillespie that she was being put on investigatory leave. Sergeant Velez

⁵ Chief Gale told DPD IAB that it is very commonplace to facilitate inmates and attorneys meeting one another in the DDC, and that there are conference rooms available for this very purpose.

⁶ When asked by DPD IAB if she knew who authorized Captain Gillespie to change from her inmate attire to her civilian clothing prior to her court appearance, Sergeant Velez stated that she did not know who authorized the changing of the clothing, but stated that Sergeant Gary Rolando handed Sergeant Velez Captain Gillespie's property bag, which included her civilian clothing, and asked Sergeant Velez to "stand by while she dresses out." When interviewed by DPD IAB, Sergeant Rolando stated that "[a]s a Sergeant, I was asked by another officer if the Captain could be changed out for court, and I determined that other prisoners are changed out for court appearances and then changed back into jail attire following their court appearance, so I called Intake to have her clothing brought up. Once I received the clothing bag, I handed it to the IA sergeant in charge so that the sergeant could determine if changing the Captain into street clothes was appropriate." When asked by DPD IAB, all interviewed parties, including Chief Gale, stated that inmates are not dressed out into their civilian attire at their arraignments.

stated to DPD IAB that she then said she didn't think that was necessarily right, and would have to check with the Sheriff before informing Captain Gillespie of whether or not that was true. Sergeant Velez stated that she would call Captain Gillespie at home and inform her, and asked Captain Gillespie if she would be home. Sergeant Velez further stated that Captain Gillespie then said, 'Yeah, I'll be home. Just let me know,' and then said goodbye to Sergeant Velez. Sergeant Velez told DPD IAB that it was her understanding that Captain Gillespie was going home. Video evidence then shows Captain Gillespie, with said unknown deputy and another deputy (presumably Deputies Givens and Travis), depart from the DDC in a DSD vehicle, and Chief Gale returning to the DDC.

Prior to Captain Gillespie's release, Captain Brown gave instructions for Captain Blair to inform him of the bond information that is sent from court so that he could have Captain Gillespie brought down, dressed out in Release, and then released. After the arraignment, Captain Blair notified Captain Brown that she received the information from court and would meet Captain Gillespie in Release. Captain Brown then called up to the third floor medical unit, where Captain Gillespie had been housed, and asked the desk officer to have Captain Gillespie escorted down to the Release area where she could be dressed out; however, unbeknownst to Captain Brown, Captain Gillespie had already been dressed out. Captain Brown then called around the second floor, looking for Captain Gillespie, and did not find her; he then called Release, and did not find her there either. Captain Brown then received a phone call from one of the officers on the third floor, informing Captain Brown that the officer heard that Captain Gillespie had already been released. Captain Brown looked Captain Gillespie up on the system, and she was still active on the system. Captain Brown then called Deputy Lavin, the reception officer, who advised Captain Brown that Captain Gillespie had already exited through the lobby with Chief Gale, her attorney, Sergeant Velez, and two other deputies.

At this point, Captain Brown called Captain Blair and informed her that Captain Gillespie had already left the facility, to which Captain Blair said "Well, I'm holding the bond right here and she's released to pretrial." Captain Brown informed Captain Blair that Captain Gillespie had been allowed to leave the facility straight from the courtroom, as authorized by Chief Gale. Captain Brown then requested Captain Blair to call Chief Gale, and informed her that he would call Sergeant Velez. When Captain Brown called Sergeant Velez, she told him that Chief Gale had authorized Captain Gillespie to leave from the courtroom, and said Captain Gillespie was free to go from the courtroom. Captain Blair then called Chief Gale and asked if Captain Gillespie was with him, to which Chief Gale responded that Captain Gillespie had left with Internal Affairs. Captain Blair then told Chief Gale that Captain Gillespie should not have been allowed to leave the DDC, as she needed to sign her PR bond and go to pre-trial services. Captain Blair then asked Chief Gale who Captain Gillespie was with, and told Chief Gale that Captain Gillespie needed to come back, after which Chief Gale said he would make some phone calls and have Captain Gillespie return. Around this time, Sergeant Velez called Captain Gillespie and instructed her to return to the DDC, and Captain Gillespie indicated that she was already en route back.

Captain Blair then left her office with the paperwork and Captain Gillespie's property in her hand and met Captain Brown and Chief Gale. Chief Gale said "I guess Sergeant Velez just didn't know," and Captain Blair made no reply. As they walked, Captain Brown remarked that he had reached Sergeant Velez, who was on her way back. At this time, Chief Gale looked at Captains Brown and Blair and said "I'm going to go into Records for a bit," and walked away. Captains Brown and Blair continued on to the lobby, and met Sergeant Velez outside of the DDC. Captain

Blair stated that "Sergeant Velez appeared somewhat upset or frazzled, and stated she had asked if they were allowed to leave from the courtroom and Chief Gale had said yes." Captains Brown and Blair returned Captain Gillespie's property and had Captain Gillespie sign her bond. Captains Brown and Blair then directed Sergeant Velez to accompany Captain Gillespie to pre-trial services. After Captain Blair finished some tasks, she contacted DSD Internal Affairs to inform them of what took place.

When asked in his first interview with DPD IAB whose direction it was to allow Captain Gillespie to be released from the courtroom, Chief Gale stated that it "definitely was not" his direction. Chief Gale told DPD IAB that he escorted Captain Gillespie outside the courthouse to make sure she understood that she could not work due to the lack of weapons modification on the restraining order. When asked why Captain Gillespie did not go through the normal release process and was instead permitted to exit through the courtroom doors, Chief Gale stated "I guess that's a question for Sergeant Velez. I know that Internal Affairs, they basically kind of control and manage the person through the process. So I've seen where they've deviated from our normal protocols and I just presumed that it had something to do with what they're doing."

When asked in his second interview with DPD IAB whose direction it was to allow Captain Gillespie to be released from the courtroom, Chief Gale first responded that "I didn't tell her [Captain Gillespie] to leave although when she...showed up in her civilian clothes, I thought she maybe had already gone through the release process. But I did not direct her, 'Okay, just leave and...go.' I don't know if Captain Brown or Sergeant Velez or someone else had indicated to her that she would be able to leave right from the courtroom."

Also in his second interview with DPD IAB, when specifically asked about his conversation with Sergeant Velez in the courtroom prior to exiting, Chief Gale stated that "All I did with Velez was when we walked out and Velez was talking about her going to pretrial and going with the—the Fugitive Unit, I said, 'So we're good?' And she says, 'Yeah.' And she said something to Gillespie, and I said 'Okay.' . . . I mean, it wasn't like a — I didn't have an explicit conversation with Velez, but it was, 'So everything good? You — you guys need anything?' That was kind of what my conversation was. I don't remember the exact words but it was something to that effect."

Chief Gale further stated in his second interview with DPD IAB that Mr. Elkus "didn't come in through the normal public way into the courtroom. He was brought into the courtroom from the secured part of the jail. When the hearing concluded, he says 'Which way are we going?' And I said 'You can — you can use that door over there,' to the attorney, okay? Because, you know, he's just going out to the street. He's done with the hearing." Chief Gale further stated to DPD IAB that when he made the above statement, he was talking about the attorney in the courtroom, and not specifically referring to Captain Gillespie. Chief Gale stated to DPD IAB that he didn't stop Captain Gillespie from leaving the courtroom without going through the release process because "it's really Velez who's managing the employee . . . so I'm thinking, well, if Velez isn't saying anything, there's something more. Maybe she did it already." Chief Gale further told DPD IAB that after hearing in court that Captain Gillespie was issued a PR bond, he thought that Sergeant Velez was going to take Captain Gillespie to pre-trial services, but that was based on an assumption and not on what Sergeant Velez had said.

Sergeant Rolando told DPD IAB that, at the conclusion of the arraignment, a PR bond was granted, and Chief Gale made the decision to escort Captain Gillespie from the courtroom to an

awaiting vehicle. Sergeant Rolando specifically stated that Chief Gale directed this, and that he heard Chief Gale state "Take her out the front door," referring to Gillespie. When interviewed, Deputy Lopez also told DPD IAB that she also believed it was Chief Gale who allowed Captain Gillespie to leave from the courtroom to an awaiting vehicle after the PR bond was granted, as such an order would have to come from the highest ranking officer present, and that was Chief Gale.

When confronted at his second interview with DPD IAB with the statements from more than one person indicating that Chief Gale was the one who said Captain Gillespie could be released from the courtroom, Chief Gale responded "So why do I call her back to sign the release paperwork? . . . And I can see what – that they're thinking, 'This is the chief. He's in charge,' because I'm the chief. They're going to – they're going to presume that. I could see that. But I didn't direct that she be released from the courtroom . . . It just – it wouldn't make sense to do that unless she had already been through the release procedure." Chief Gale also told DPD IAB that, at the time of the court appearance, he believed Captain Gillespie had already gone through the release procedure because she was in civilian clothes.

When asked what the procedure is for other prisoners who receive PR bonds, all interviewed parties stated that those inmates are required to go back to DDC for release, and are not released directly from the courtroom. It is undisputed that Captain Gillespie did not leave court and return to the DDC to follow normal release procedures. When asked in his DPD IAB interview why this was not done in Captain Gillespie's case, Chief Gale responded "I guess that is a question for Sergeant Velez."

Chief Gale further stated to DPD IAB "I did not direct anybody to do anything, I basically gave the situation to the Watch Commander to handle on Sunday, and you know, it's really their responsibility. It's the manager's stuff." There is no evidence indicating that Chief Gale ever questioned or took action with respect to Captain Gillespie's appearance in civilian attire at her court hearing, or her departure from court directly to a waiting DSD vehicle.

Furthermore, during his first interview with DPD IAB, Chief Gale stated that when Captain Gillespie left the building, he went down to Intake to just walk around and talk to some people. Chief Gale further stated that while at Intake, Captain Jodi Blair asked him where Captain Gillespie was, to which he responded "She left." Chief Gale told DPD IAB that he then called Deputy Travis to bring Captain Gillespie back to the courthouse to go through the proper release procedures. Chief Gale further told DPD IAB that "I had the impression that [Sergeant Velez] was going to ride with Givens and Travis. Velez seemed to know that and was okay with it. It's her thing to manage again. I'm not running IA. I'm not in charge of Internal Affairs. And I got the impression that she was going to follow them over there . . . To do [the] pretrial services thing."

During his second interview with DPD IAB, Chief Gale stated that when Captain Gillespie left the building, he thought something was odd, so he went to Intake to speak with the sergeant, and this was how he discovered that Captain Gillespie hadn't been properly released. Chief Gale stated to DPD IAB that when he was leaving the Records section, Captain Blair approached him and asked where Captain Gillespie was, to which he replied "She left." Chief Gale then stated that Captain Blair had the release documents in her hand and told him that Captain Gillespie hadn't signed them, at which time Chief Gale responded "Okay, well, I'll call them and tell them to bring her back and we can get the release documents executed."

When asked by DPD IAB in his first interview if he felt that Captain Gillespie was given preferential treatment, Chief Gale stated "No, I mean from what I saw, no, I don't believe she was I just think Sergeant Velez maybe didn't know how it worked. When she worked at DDC, she didn't work in Release, she didn't work in Intake. So she maybe didn't understand how the whole thing went because I don't understand why she would have given her clothes and her property back if they hadn't already done the release." When asked by DPD IAB in his second interview if he believed that Captain Gillespie was afforded any special treatment, Chief Gale stated that he didn't really think she was, except for the clothes issue. Chief Gale further stated that "She didn't go through the – she didn't go through the normal release process, so that would not have been normally how it was done." When asked if there was anything further he wished to discuss with DPD IAB at his second interview, Chief Gale stated "Yeah. I think – this is what I think – I think there was confusion about her release. I think the reason there was confusion about her release is because the release documents were not kept in the Release Section The captain of Intake walking around with – with – with stacks of release documents for – for a prisoner is not normal – it's not usual."⁷

After the above events of June 15 and 16, 2014, media outlets such as the Denver Post and Colorado Independent published stories featuring your alleged involvement in affording preferential treatment to Captain Gillespie.

Based on the review of the record, a preponderance of the evidence establishes many serious acts of misconduct in violation of the following departmental rules and policies.

ANALYSIS AND CONCLUSIONS

Career Service Rules 16-60 A, Neglect of Duty; E, Any act of dishonesty; L, Failure to observe written departmental or agency regulations, policies or rules as it pertains to DSD RR-200.4.2 – Commission of a Deceptive Act

Chief Gale violated these departmental rules when, by a preponderance of the evidence, he "willfully, intentionally, [and] knowingly commit[ted] a materially deceptive act, including ... departing from the truth verbally, making a false report, or intentionally omitting information" in connection with the investigation of this incident.

The evidence demonstrates that Chief Gale engaged in deceptive conduct multiple times, when he repeatedly stated to DPD IAB, as well as repeatedly avowed at the pre-disciplinary hearing, that he did not give the direction to release Captain Gillespie from the courtroom. Chief Gale himself stated in his IAB interviews that Sergeant Velez had never worked Intake or Release at DDC before, and "maybe didn't know how it worked maybe didn't understand how the whole thing went" Further, it is undisputed that Chief Gale was the highest ranking DSD officer in courtroom 2300 on June 16, 2014 (and, indeed, *the* highest ranking DSD officer to handle the matter, as former Sheriff Wilson had recused himself), prior to Captain Gillespie

⁷ Captain Blair was the Intake captain on June 16, 2014. Captain Blair alerted DSD IAB to what occurred on June 16, 2014, and further memorialized the events in an email to DSD IAB dated June 18, 2014. As a result of Captain Blair's report to DSD IAB, a DPD IAB case was opened, and Chief Gale was placed on investigatory leave.

being permitted to exit through the front doors of the courtroom instead of being released from custody in the normal manner.

Sergeant Velez's uncertainty with the release process is evident in her statements to DPD IAB. Sergeant Velez stated that at the conclusion of Captain Gillespie's arraignment, for which Chief Gale was present in its entirety, she approached Chief Gale, the highest ranking DSD officer in the courtroom and the highest ranking DSD officer to oversee the matter, and asked him, "So what's the next step? What's the process?," to which Chief Gale replied, "She can go. She can walk right out the door." Sergeant Velez told DPD IAB that she then said to Chief Gale, "Are you sure?" and Chief Gale said "Yeah, I'll walk out with you guys." Sergeant Velez is unequivocal that Chief Gale made the decision to allow Captain Gillespie to leave straight from the courtroom and out to a waiting vehicle. When specifically asked by DPD IAB if Chief Gale made that decision, Sergeant Velez stated "Yes. That is correct. He was the one that ultimately made the decision."

Deputy Lopez likewise recognizes the significance of Chief Gale's role in the courtroom that day, as she stated to DPD IAB that she also believed it was Chief Gale who allowed Captain Gillespie to leave from the courtroom to an awaiting vehicle after the PR bond was granted, as such an order would have to come from the highest ranking officer present, and that was Chief Gale.

Sergeant Rolando also corroborates Sergeant Velez's version of events. Sergeant Rolando told DPD IAB that at the conclusion of the arraignment, a PR bond was granted, and Chief Gale made the decision to escort Captain Gillespie from the courtroom to an awaiting vehicle. Sergeant Rolando specifically stated that Chief Gale directed Captain Gillespie to be escorted from the courtroom to an awaiting vehicle, and that he heard Chief Gale state "Take her out the front door," referring to Gillespie. It strains the bounds of credibility to believe that, as argued at his pre-disciplinary hearing, Chief Gale was referring to taking Captain Gillespie, once properly released, out the front door of the DDC, and not the front door of the courtroom, especially as two deputies were waiting in the courtroom to escort Captain Gillespie out to their vehicle, parked in the traffic loop outside of the front of DDC. Further, "take her out the front door" corresponds with Sergeant Velez's recollection of Chief Gale saying "She can walk right out the door Yeah, I'll walk out with you guys," after which Chief Gale exits the front door of the courtroom with Captain Gillespie and Sergeant Velez before exiting the DDC. Had Chief Gale intended to instruct that Captain Gillespie be taken out the front door of DDC after being properly released, he would have stopped Captain Gillespie from exiting the front door of the courtroom to ask what was going on and why his order as Division Chief was not being followed. Instead, video evidence shows Chief Gale walking out of the courtroom with Captain Gillespie and Sergeant Velez, down the stairs, and out the front door of DDC, where he spends approximately five minutes having a conversation in front of the building before walking away. Again, accepting his arguments at the pre-disciplinary meeting, had Chief Gale ordered for Captain Gillespie to be brought out the front door of the DDC after being properly released, he had ample time to reiterate and enforce his order during that conversation. However, the evidence shows that never once does Chief Gale ask why Captain Gillespie is not going through the release procedure prior to exiting the front door of both the courtroom and DDC. It is therefore more likely than not that the statement Sergeant Rolando heard, "Take her out the front door," refers to taking Captain Gillespie out the front, public doors of the courtroom, down the stairs, out the front doors of the DDC, and to the awaiting vehicle in the traffic loop.

Furthermore, Sergeant Velez later corroborates herself in the statements she makes to Captains Blair and Brown upon her return to DDC. Captain Brown stated to DPD IAB that, when he called Sergeant Velez, Sergeant Velez told Captain Brown that Chief Gale had authorized Captain Gillespie to leave from the courtroom, and said Captain Gillespie was free to go from the courtroom. Captain Blair recalled that, when Sergeant Velez returned to the DDC that day, "[she] appeared somewhat upset or frazzled, and stated she had asked if they were allowed to leave from the courtroom and Chief Gale had said yes." These are statements made by Sergeant Velez to two separate commanding officers, prior to an IAB investigation being opened or even a complaint being made, upon learning that a mistake in the release process had occurred. It is more likely than not that Sergeant Velez, a fairly new sergeant to DSD IAB and someone who had never worked Intake or Release before, would ask for direction from the Division Chief of the DDC, present at an arraignment occurring in the DDC, who had been with the Department for many years and who was very familiar with the DDC's arraignment and release procedures. It is also more likely than not that, once telephoned by the Watch Commander of the DDC and informed that a necessary step in the release process had not been completed, Sergeant Velez would inform the Watch Commander that she had received specific instructions from the Division Chief as to the next step in the release process.

When interviewed, Deputy Lopez also told DPD IAB that she also believed it was Chief Gale who allowed Captain Gillespie to leave from the courtroom to an awaiting vehicle after the PR bond was granted, as such an order would have to come from the highest ranking officer present, and that was Chief Gale.

To add further support to Sergeant Velez and Sergeant Rolando's version of events, the video evidence shows Chief Gale and other DSD personnel having a conversation at the conclusion of the arraignment, during which Chief Gale gestured multiple times toward the front door of the courtroom, away from the internal door that leads back to the secure area of the DDC. Video evidence also shows Captain Gillespie gesturing toward the front door of the courtroom, and an unknown deputy, presumably either Deputy Givens or Travis, making a circular motion above his head. Video evidence then shows Chief Gale, Mr. Elkus, Captain Gillespie, Sergeant Velez, and said unknown deputy exiting through the public doors to the courtroom, down the stairs, into the lobby, and out the front doors of the DDC. It is reasonable to believe that the circular motion made by the unknown deputy, present at the arraignment only to escort and transport Captain Gillespie, refers to the waiting vehicle in the traffic loop in front of the DDC. It would be unnecessary and superfluous for Chief Gale to be concurrently giving an order for Captain Gillespie to be processed through release and then taken out the front door of the DDC, when the vehicle was already waiting for her in front of DDC.

Chief Gale therefore engaged in deceptive conduct when he stated to DPD IAB, multiple times and on multiple occasions, that it "definitely was not" his direction to allow Captain Gillespie to be released from the courtroom, as well as when he reiterated this position at his pre-disciplinary hearing. In his second interview with DPD IAB, Chief Gale recalls his conversation with Sergeant Velez as "All I did with Velez was when we walked out and Velez was talking about her going to pretrial and going with the—the Fugitive Unit, I said, 'So we're good?' And she says 'Yeah.' And she said something to Gillespie, and I said 'Okay . . . I mean, it wasn't like a—I didn't have an explicit conversation with Velez, but it was, 'So everything good? You—you guys need anything?' That was kind of what my conversation was. I don't remember the exact words, but it was something to that effect." Chief Gale's version of the conversation and

claim to DPD IAB that "I did not direct anybody to do anything" is incredible, given the weight of the evidence above to the contrary. Moreover, Chief Gale's repeated assertion at his DPD IAB interviews and pre-disciplinary hearing that he didn't give any direction because he realized he didn't have the authority to give direction to the IAB sergeant is undermined by his own claim that he gave direction for Captain Gillespie to be released through the front doors of DDC.

Chief Gale also gives multiple explanations for Sergeants Rolando and Velez's understandings that he was directing Captain Gillespie to exit through the front door of the courtroom. At his pre-disciplinary meeting, Chief Gale argued that "Take her out the front door" referred to Captain Gillespie exiting the front door of DDC upon being properly released. In his second interview with DDP IAB, Chief Gale engaged in deceptive conduct in that he offered the explanation that Captain Gillespie's attorney "didn't come in through the normal public way into the courtroom. He was brought into the courtroom from the secured part of the jail. When the hearing concluded, he says 'Which way are we going?' And I said 'You can—you can use that door over there,' to the attorney, okay? Because, you know, he's just going to the street. He's done with the hearing." Chief Gale stated to DPD IAB that when he referred to the front door of the courtroom, he was talking about the attorney exiting the courtroom, and not specifically referring to Captain Gillespie. It is wholly incredible that an attorney would not know how to exit a courtroom at the conclusion of his client's arraignment, and would see fit to ask the Division Chief how to do so. Furthermore, Chief Gale's own statement attributes the question of "Which way are we going?" to the attorney, not "Which way am I going?" or "How do I get out of here?" Accepting Chief Gale's argument as true, should Captain Gillespie's attorney be confused as to how to properly exit the courtroom after the arraignment and believe it proper to ask the Division Chief, it would be reasonable to believe that the question would be phrased differently so as not to encompass the attorney and his client, whom the attorney and the Division Chief knew had been recently assigned a PR bond and a concomitant obligation to follow release procedures.

Furthermore, Chief Gale engaged in deceptive conduct during his interviews at DPD IAB and at the pre-disciplinary meeting when he claimed that he thought Captain Gillespie had already gone through the release procedure and that Captain Gillespie's arraignment had already been completed. Chief Gale's statement at the pre-disciplinary meeting that "arraignments go very quickly . . . an inmate comes up, the judge states what the inmate is charged with, the judge asks how the inmate pleads, a plea is entered, and the judge gives the inmate his bond" shows that Chief Gale is familiar with the arraignment process, as he would be expected to be as the Division Chief of the DDC, with many years of experience. Moreover, Chief Gale stated at the pre-disciplinary meeting that, when he walked into the courtroom, this is not what was transpiring, and Captain Gillespie was already in civilian clothing. Chief Gale further stated at the pre-disciplinary hearing that at the time, he thought the arraignment must have already been completed. Furthermore, Chief Gale told DPD IAB that, at the time of the court appearance, he believed that Captain Gillespie had already gone through the release procedure because she was in civilian clothes.

However, the preponderance of the evidence indicates that Chief Gale knew that Captain Gillespie was being arraigned, as transcripts as well as video and audio recordings of the proceeding show Chief Gale physically present for the beginning of the arraignment, the waiver of the reading of the rights and charges, setting of a PR bond, and requirement to go to pre-trial. Additionally, Chief Gale's own statements to DPD IAB indicate that he is aware that courtroom 2300 is "the arraignment courtroom," and that he had heard Captain Gillespie being issued a PR bond. When asked by DPD IAB what the procedure is for persons who receive PR bonds, Chief

Gale stated that those inmates are required to go back to DDC for release, and are not released directly from the courtroom. It is therefore incredible that Chief Gale, the Division Chief of the DDC with many years of experience, including specifically with Intake, Release, and arraignments, would himself have been present for an arraignment, heard a PR bond being issued and requirement to attend pre-trial services, and nonetheless believe that the inmate, regardless of how she was dressed, had already gone through the DDC release procedure.

Moreover, Chief Gale engaged in deceptive conduct when he stated to DPD IAB that, after hearing in court that Captain Gillespie was issued a PR bond, he thought that Sergeant Velez was going to take Captain Gillespie to pre-trial services, as video evidence and Sergeant Velez's statements refute this claim. Chief Gale stated to DPD IAB that he "had the impression that [Sergeant Velez] was going to ride with Givens and Travis I got the impression that she was going to follow them over there To do [the] pre-trial thing." However, video evidence shows Chief Gale, Captain Gillespie, an unknown deputy, and Sergeant Velez having a conversation outside of DDC for approximately five minutes. Sergeant Velez stated to DPD IAB that, during this time, she and Chief Gale were speaking with Captain Gillespie about whether Captain Gillespie would be placed on investigatory leave. Sergeant Velez stated that she told Captain Gillespie that she would call her at home to inform her, and asked Captain Gillespie if she would be home, to which Captain Gillespie replied "Yes. I'll be home. Just let me know." Sergeant Velez told DPD IAB that Captain Gillespie then said goodbye to Sergeant Velez and walked away, into the waiting vehicle, without Sergeant Velez. Video evidence corroborates the existence of this conversation, including Chief Gale's presence and participation. Based on the context of this conversation, it is more likely than not that Chief Gale knew that Sergeant Velez was not accompanying Captain Gillespie further, either to pre-trial services or to her home.

Chief Gale's statements to DPD IAB and at his pre-disciplinary meeting are wholly contradictory to the evidence, and incredible when examined in the totality of the circumstances. As established by a preponderance of the evidence, Chief Gale violated these departmental rules when, by a preponderance of the evidence, he "willfully, intentionally, [and] knowingly commit[ted] a materially deceptive act, including ... departing from the truth verbally, making a false report, [and] intentionally omitting information" in connection with the investigation of this incident.

Under the DSD disciplinary matrix, a violation of DSD Rule 200.4.2 is a pre-determined Conduct Category F violation. Chief Gale failed to observe written departmental or agency rules, policies and procedures by his commission of a deceptive act in connection with the IAB investigation in this case. This behavior involves a "violation of law, rule, [and] policy which [...] constitutes a willful and wanton disregard of department guiding principles; [and] involves [an] act which demonstrates a serious lack of the integrity, ethics [and] character related to a deputy sheriff's fitness to hold [her] position; [and] involves egregious misconduct substantially contrary to the standards of conduct reasonably expected of one whose sworn duty is to uphold the law." As such, this rule violation is a Conduct Category F violation.

A Conduct Category F violation by a deputy is always classified as discipline level 8, the highest level of discipline. Thus the penalty level, pursuant to the disciplinary matrix, would be 8. The mitigated penalty is ninety (90) days suspension, the presumptive penalty is dismissal, and there is no aggravated penalty for discipline level 8 conduct violations.

There are present mitigating factors which include an absence of significant prior discipline as well as job performance evaluations in which Chief Gale is rated to have achieved and exceeded expectations. Chief Gale's commendations and awards were also taken into consideration. Nevertheless, these mitigating factors are not sufficiently weighty to warrant a penalty other than the presumptive penalty, given the repetition of Chief Gale's deception, his refusal to take responsibility for his conduct, and the nature of his behavior. Accordingly, the presumptive penalty of dismissal is hereby imposed for violations of CSA rules 16-60A, E, L, and DSD Rule 200.4.2.

Career Service Rules 16-60 A, Neglect of Duty; L, Failure to observe written departmental or agency regulations, policies or rules as it pertains to DSD RR-300.11.6 – Conduct Prejudicial; and Z, Conduct Prejudicial

Chief Gale violated these departmental rules when he demonstrated conduct "prejudicial to the good order and effectiveness of the Department, [and] conduct that [brought] disrepute on [and] compromise[d] the integrity of the City [and] the Department," as well as "conduct unbecoming which causes harm greater than would reasonably be expected to result."

At all times, Chief Gale was the highest ranking DSD officer to be in charge of the Captain Gillespie matter, as former Sheriff Wilson had recused himself shortly after learning of Captain Gillespie's arrest. As such, the responsibility for ensuring that former Sheriff Wilson's direct order that Captain Gillespie not be provided preferential treatment ultimately rested with Chief Gale. Chief Gale's rank carried with it a great weight of responsibility, and regardless of whether Internal Affairs had the general authority of the Sheriff pursuant to Department Order, Chief Gale had an obligation as the Division Chief of the DDC, entrusted with the responsibilities of the Sheriff in this particular situation, to ensure that all proper procedures were followed. This was especially true where Chief Gale was aware that a fairly new sergeant with DSD IAB who had never before worked Intake or Release was assigned to Captain Gillespie, as well as when he observed proper procedure not being followed, such as Captain Gillespie having been dressed out in civilian attire at her arraignment. Chief Gale's neglect to ensure that proper procedures were followed in this instance caused confusion and uncertainty among his employees, which was detrimental to the good order and effectiveness of the Department. Chief Gale's refusal to ensure, as the highest ranking DSD officer handling the matter, that former Sheriff Wilson's orders were followed, and willingness to disobey them when it suited him, led to the premature release of an inmate from custody, as well as a perception of preferential treatment among employees and the public. Furthermore, Chief Gale's lack of leadership in failing to intervene when he observed Captain Gillespie dressed out in civilian attire at arraignments, and direction to Captain Gillespie to exit the courtroom and DDC without following proper release procedures, led to subsequent disrepute on the image and integrity of the Department, as reflected in various media articles.

Chief Gale was the senior DSD officer in charge of not only the DDC, but also the Captain Gillespie matter. It was his responsibility and duty to see that all policies and procedures were followed under his command. By Chief Gale not enforcing the use of proper procedures under his command, he allowed, and himself bestowed, preferential treatment for Captain Gillespie. The arrest of Captain Gillespie was a high profile arrest with media attention; in order not to bring disrepute upon the Department, all of the actions, decisions, and issues pertaining to Captain Gillespie should have been handled with the highest degree of responsibility. The

lackadaisical attitude displayed by Chief Gale and willingness to place the blame at the feet of a relatively inexperienced sergeant brought disrepute on and compromised the integrity of the Department, as well as constituted conduct unbecoming of a leader in the Department.

Under the DSD disciplinary matrix, a violation of DSD Rule 300.11.6 falls in all Conduct Categories A through F. Chief Gale's behavior was a "serious abuse or misuse of authority, unethical behavior, or an act that results in an actual serious and adverse impact on deputy sheriff, employee, or public safety, or to the professionalism of the department." As such, this rule violation is a Conduct Category E violation.

Chief Gale does not have any prior Conduct Category E, or higher, violations that would mandatorily increase the penalty level. Thus, the penalty level, pursuant to the disciplinary matrix, would be 6. The mitigated penalty range would be 18-22 days suspension, the presumptive penalty would be 30 days suspension, and the aggravated penalty range would be a suspension of 38-42 days suspension.

In determining the appropriate penalty to be imposed, full consideration was given to Chief Gale's absence of significant prior discipline as well as job performance evaluations in which Chief Gale is rated to have achieved and exceeded expectations. Chief Gale's commendations and awards were also taken into consideration. Nevertheless, these mitigating factors are not sufficiently weighty to warrant a penalty other than the presumptive penalty, given Chief Gale's refusal to take responsibility for his conduct and the nature of his behavior. Chief Gale's conduct is detrimental to the professional image of the Department and jeopardized the Department's mission and relationship with other deputy sheriffs, agencies and the public. Furthermore, the Department expects that a supervisor or command officer should exercise even greater restraint and circumspection than a subordinate deputy. Supervisors are expected to lead by example. They are responsible for holding others accountable and should likewise be accountable. Accordingly, the presumptive penalty of 30 days suspension is hereby imposed for violations of CSA rules 16-60A, E, L, Z, and DSD Rule 300.11.6.

Career Service Rules 16-60 A, Neglect of Duty; J, Failure to comply with the lawful orders of an authorized supervisor or failing to do assigned work which the employee is capable of performing; L, Failure to observe written departmental or agency regulations, policies or rules as it pertains to DSD RR-200.13 – Disobeying a Lawful Order

Chief Gale violated these Career Service Rules and Departmental Rules when he "disobeyed, neglected, or refuse[d] to obey any lawful order of a supervisor . . .", as well as failed to comply with the lawful orders of an authorized supervisor and failed to do assigned work he was capable of performing.

The preponderance of the evidence indicates that Chief Gale disobeyed former Sheriff Wilson's lawful, direct order not to afford Captain Gillespie special treatment, as well as former Sheriff Wilson's lawful, direct order not to permit Chief Gale's subordinates to afford Captain Gillespie special treatment. At all times, Chief Gale was the highest ranking DSD officer to be in charge of the Captain Gillespie matter, as former Sheriff Wilson had explicitly recused himself shortly after learning of Captain Gillespie's arrest. As such, the responsibility for ensuring that former Sheriff Wilson's lawful, direct order that Captain Gillespie not be provided preferential treatment

ultimately rested with Chief Gale. Chief Gale's rank carried with it a great weight of responsibility, and regardless of whether Internal Affairs had the general authority of the Sheriff pursuant to Department Order, Chief Gale had an obligation as the Division Chief of the DDC, entrusted with the responsibilities of the Sheriff in this particular situation, to ensure that all proper procedures were followed. This was especially true where Chief Gale was aware that a fairly new sergeant with DSD IAB who had never before worked Intake or Release was assigned to Captain Gillespie, as well as when he observed proper procedure not being followed, such as Captain Gillespie having been dressed out in civilian attire at her arraignment. There is no evidence to indicate that Chief Gale was unable to intervene when he observed proper procedure not being followed; in fact, Chief Gale was present in the courtroom for Captain Gillespie's court appearance and could have stepped in to inquire why she was improperly attired. However, Chief Gale neglected to ensure, as the highest ranking DSD officer handling the matter, that former Sheriff Wilson's lawful, direct order was followed, as well as disobeyed that lawful, direct order when he directed that Captain Gillespie be released directly from the courtroom. Chief Gale's failure to intervene when he observed Captain Gillespie dressed out in civilian attire at arraignments, and direction to Captain Gillespie to exit the courtroom and DDC without following proper release procedures, constituted disobedience, neglect, and refusal to obey the lawful order of his supervisor, former Sheriff Wilson, resulting in the preferential treatment for Captain Gillespie that former Sheriff Wilson had specifically indicated he did not wish to occur.

Under the DSD disciplinary matrix, a violation of DSD Rule 200.13 falls in Conduct Categories C through F. Chief Gale's behavior was a "serious abuse or misuse of authority, unethical behavior, or an act that results in an actual serious and adverse impact on deputy sheriff, employee, or public safety, or to the professionalism of the department." As such, this rule violation is a Conduct Category E violation.

Chief Gale does not have any prior Conduct Category E, or higher, violations that would mandatorily increase the penalty level. Thus, the penalty level, pursuant to the disciplinary matrix, would be 6. The mitigated penalty range would be 18-22 days suspension, the presumptive penalty would be 30 days suspension, and the aggravated penalty range would be a suspension of 38-42 days suspension.

In determining the appropriate penalty to be imposed, full consideration was given to Chief Gale's absence of significant prior discipline as well as job performance evaluations in which Chief Gale is rated to have achieved and exceeded expectations. Chief Gale's commendations and awards were also taken into consideration. Nevertheless, these mitigating factors are not sufficiently weighty to warrant a penalty other than the presumptive penalty, given Chief Gale's refusal to take responsibility for his conduct and the nature of his behavior. Chief Gale's conduct is in direct contravention to the lawful, direct order of former Sheriff Wilson, who entrusted Chief Gale with the responsibility of ensuring that his direction was carried out across the board. Accordingly, the presumptive penalty of 30 days suspension is hereby imposed for violations of CSA rules 16-60A, J, L, and DSD Rule 200.13.

SUMMARY OF DISCIPLINARY DETERMINATIONS

R&R	Conduct	Finding	Category	Level	Range	Penalty
CSR 16-60	Commission of	Sustained	F	8	Presumptive	Dismissal

A, E, & L DSD RR-200.4.2	a Deceptive Act					
CSR 16-60 A, L, & Z DSD RR-300.11.6	Conduct Prejudicial	Sustained	E	6	Presumptive	30 days suspension
CSR 16-60 A, J, & L, DSD RR-200.13	Disobeying Lawful Order	Sustained	E	6	Presumptive	30 days suspension


Shannon Elwell
Civilian Review Administrator

1/21/2015
Date