



From the Office of
Executive Director of the Department of Safety

1331 Cherokee Street

Room 302

Denver, CO 80204

p: 720.913.6020

f: 720.913.7028

www.denvergov.org/safety

January 18, 2017
Mr. Walter J. Greene, Jr.

RE: Notice of Contemplation of Discipline

Dear Mr. Greene:

This is official notification that you are being demoted to the position of Deputy Director of the Crime Lab to Photo Enforcement Agent, Position Number 41128, at an annual salary of \$57,940. This demotion is based on misconduct that violates the following Career Service Rules, and other applicable rules, laws, orders, or policies, as follows:

With respect to conduct that occurred prior to February 13, 2016:

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.
- B. Carelessness in performance of duties and responsibilities.
- D. Unauthorized operation or use of any vehicles, machines, or equipment of the City, or of any entity having a contract with the City, including, but not limited to, the unauthorized use of the internet, e-mail, or telephones.
- 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.
- I. Possessing a weapon on City property or a work location without written permission of the employee's appointing authority.

- L. Failure to observe written departmental or agency regulations, policies, or rules. When citing this subsection, a department or agency must cite the specific regulation, policy or rule the employee has violated.
- M. Threatening, fighting with, intimidating, or abusing employees or officers of the City, or any other member of the public, for any reason.
- N. 1. Intimidation or retaliation against an individual who has been identified as a witness, party, or representative of any party to any hearing or investigation relating to any disciplinary procedure, or any violation of a city, state, or federal rule, regulation or law, or against an employee who has used the dispute resolution process in good faith.
- O. Failure to maintain satisfactory working relationships with co-workers, other City employees, or the public.
- R. Discrimination or harassment of any employee or officer of the City because of race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state, or local laws. This includes making derogatory comments based on race, color, creed, religion, national origin, gender, sexual orientation, marital status, military status, age, disability, or political affiliation, or any other status protected by federal, state, or local laws. Discipline for this prohibited conduct does not have to rise to the level of a violation of any relevant state or federal law before an employee may be disciplined and the imposition of such discipline does not constitute an admission that the City violated any law.
- X. Divulging confidential or otherwise sensitive information to unauthorized individuals.
- Y. Conduct which violates the Rules, the City Charter, the Denver Revised Municipal Code, Executive Orders, or any other applicable legal authority.
- 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.

With respect to conduct that occurred on or after February 13, 2016:

Career Service Rule 16-29 Grounds for Discipline

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

- A. Neglect of duty or carelessness in performance of duties and responsibilities.
- C. Unauthorized operation or use of any vehicles, machines, or equipment of the City, or of any entity having a contract with the City, including, but not limited to, the unauthorized use of the internet, email, or telephones.

- D. Any act of dishonesty, which may include, but is not limited to, lying, or improperly altering or falsifying records, examination answers, or work hours.
- H. Intimidation or retaliation against an individual who has been identified as a witness, party, or representative of any party to any hearing or investigation relating to any disciplinary procedure, or any violation of a city, state, or federal rule, regulation or law, or against an employee who has used the dispute resolution in good faith.
- I. Failure to maintain satisfactory working relationships with co-workers and other individuals the employee interacts with as part of his or her job.
- L. Discrimination or harassment as defined in this Rule 16. This includes making derogatory statements based on race, color, creed, religion, national origin, sex, gender identity, sexual orientation, marital status, military status, age, disability, or political affiliation, or any status protected by federal, state, or local laws. This prohibited conduct need not rise to the level of a violation of any relevant state or federal law before an employee may be disciplined and the imposition of such discipline does not constitute an admission that the City violated the law.
- Q. Divulging confidential or otherwise sensitive information to unauthorized individuals.
- R. Conduct which violates the Career Service Rules, the City Charter, the Denver Revised Municipal Code, Executive Orders, written departmental or agency regulations, policies or rules, or any other applicable legal authority. When citing this subsection, a department or agency must cite the specific regulation, policy or rule the employee has violated.

Executive Orders

Executive Order 64, Records Management

6.0 Ownership of Records: City and County of Denver Records are the Property of the City and County of Denver. No City and County of Denver official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them.

Memorandum No. 64A – Preservation of Litigation Records.

8. Agency Records Coordinators and others who retrieve Documents requested by a Litigation Hold Advisory will provide those records to the City Attorney's Office as instructed.

Appendix A to Memorandum No. 64A – Special Advisory regarding Electronic Data

At individual work stations, this Litigation Hold requires you to preserve and retain all potentially relevant files stored on your hard drive.

At the network and systems administration level, this Litigation Hold requires you to preserve and retain all potentially relevant files stored on City's servers and to refrain

from doing any administrative work that has the potential to destroy potentially relevant files. . .

Additionally, you should contact and inform all staff of this Litigation Hold and instruct any relevant staff members who may possess files and records related to above-referenced litigation hold to preserve them.

Executive Order No. 112

Violence in the Workplace – Defines improper behavior, establishes management responsibility, and discipline. Bringing any kind of weapon to a City work location . . . is strictly prohibited, unless an employee is required to carry a weapon as part of his or her City position. This prohibition includes the possession of weapons in violation of federal, state, or local law.

City employees who . . . bring a weapon to a City work location or a City sponsored event, or otherwise violate this Executive Order, may be subject to disciplinary action, up to and including dismissal, and possible criminal action. Failure of a managerial or supervisory employee to enforce this Executive Order may result in disciplinary action against the manager or supervisor, up to and including dismissal.

Career Service Rules

CSA Rule 9-55 Standby Pay

- A. Appointing authorities may schedule employees to be on standby duty only when there is a reasonable anticipation that the employee will have to respond and perform work immediately. Eligible employees shall receive an amount equal to one and one half (1 ½) hours of work at the employee's straight time hourly rate for each eight hours the employee is on standby duty.

CSA Rule 9-56 Call Back Pay

- A. Overtime eligible employees required by the appointing authority to report back to the work site shall be paid a minimum amount equal to two (2) hours of work at the employee's scheduled rate of pay from the time the employee begins work.
- B. Employees who work more than two hours shall be paid for the actual time worked.

CSA Rule 9-65 Work Assignment Outside of Job Classification

- A. An appointing authority may temporarily assign the duties of a vacant position in a higher level classification to an employee in a lower level classification for a period of one year in accordance with the criteria established in this rule.

- B. 1. Employees are eligible for additional pay for such assignments when they have been assigned all of the duties and responsibilities of the vacant position in the higher level classification.

CSA Rule 9-90 Overtime

Rule 9-91 Policy

- A. In accordance with the FLSA, all work performed in excess of forty (40) hours per week by non-exempt employees shall be designated overtime work for the purposes of compensation . . .

CSA Rule 9-100 Payment for Overtime

- A. Non-exempt employees: Non-exempt employees who work overtime shall receive compensation at the rate of one and one-half (1 ½) times the regular rate of pay applicable to the position.

CSA Rule 10-25 All Other PTO Uses

- B. Appointing authorities shall approve such requests to use PTO on the basis of the work requirements of the agency after conferring with employees and recognizing their wishes where possible. Preference in the scheduling of pre-approved PTO shall be given to employees in order of their total length of continuous employment in the Career Service . . .

CSA Rule 10-71 Compensatory Time

Compensatory time earned under the provisions of Rule 9 Pay Administration may be taken at any time mutually convenient to the employee and the appointing authority. However, all accrued compensatory time shall be used by March 31st of each calendar year or paid out in cash by the final pay period of April of that year.

CSA Rule 16-23 Retaliation Prohibited

Retaliation against employees for reporting or threatening to report harassment or discrimination or assisting the City in the investigation of any complaint is strictly prohibited. Retaliation can include, but is not limited to, such acts as refusing to recommend an employee for a benefit for which he or she qualifies, spreading rumors about the employee, encouraging hostility from co-workers, and escalating the harassment. Any employee engaging in retaliation may be subject to corrective action, up to and including dismissal.

CSA Rule 18-10 Open Door Policy

- A. Under the City's open door policy, employees are encouraged to informally and directly discuss work-related issues with their direct supervisors.
 - B. If this does not resolve the concern, the employee is encouraged to bring the issues to the attention of the employee's manager/director, appointing authority, or a human resource (HR) representative.
- T. Conduct which is or could foreseeably:
 - 1. Be prejudicial to the good order and effectiveness of the department or agency;
 - 2. Bring disrepute on or compromise the integrity of the City; or
 - 3. Be unbecoming of a City employee.

Department of Safety EEO Policy

- (1) Examples of conduct that could violate this policy include but are not limited to: A. Verbal conduct such as epithets, derogatory comments, slurs, unwanted sexual advances, invitations, or comments.
- (3) All Department of Safety employees are required to promptly report potential violations of this policy so that appropriate actions may be taken. Potential violations should be reported to any of the following:
 - A. Any supervisor in the reporting employees' or offending employee's agency;
 - B. The Internal Affairs Bureau for the reporting employee's or offending employee's agency (available twenty-four hours per day, seven days per week);
 - C. The Human Resource Bureau for the reporting employee's or offending employee's agency;
 - D. The Manager of Safety's EEO coordinator; and/or
 - E. The Career Service Authority Employee Relations Unit.
- (4) Supervisors and managers who become aware, by any formal or informal means, of possible discrimination, harassment, or retaliation must take prompt, reasonable actions to stop the prohibited behavior. Additionally, supervisors and managers must promptly report any information concerning the possible prohibited behavior to the Manager of Safety's EEO Coordinator and their agency head.
- (6) Retaliation is strictly prohibited against employees who have in good faith:
 - A. Opposed conduct that potentially violates this policy, including but not limited to making a complaint or protest on behalf of another individual;
 - B. Reported conduct that the employee experienced or observed and reasonably believes to constitute a potential violation of this policy; or

C. Assisted or participated in an investigation, claim, lawsuit, or hearing concerning a complaint of discrimination, harassment, or retaliation. This includes but is not limited to making a report or complaint or providing a witness interview during an investigation.

Fiscal Accountability Rule 10.6 – Take Home Vehicles and Carpooling

1. The employee shall not use the City vehicle for personal purposes, except for commuting and de minimis use.

Crime Lab Standard Operating Procedures, Section VI. Administrative Reports

Minimum Narrative/Reporting Requirement

- Q. When mistakes occur in CSU handwritten note(s) or within any CSU record(s), each mistake shall be crossed out (not erased, made illegible, or deleted). The corrected value or information shall be entered alongside the mistake. All such alterations in notes or records shall be signed or initialed by the person making the correction. In the case of electronically stored record(s), equivalent measures shall be taken to avoid loss or change of original data, by creating an "Amended Report."

Crime Lab Quality Assurance Manual, Section 5.10.9

In some instances, a supplemental or amended report may need to be issued. When this report is generated the wording "Amended Report" must be included in the report. A statement in the introduction of the report will be included in the report. A statement in the introduction of the report will be included to identify the new report as replacing the original report. Documentation of the revisions to the report shall be communicated to the customer. A copy of the original report, the amended report, and the documentation of the revision(s) will be provided to the customer and kept in the case file.

Fair Labor Standards Act, 29 U.S.C. 207

(1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

You have been employed with the City and County of Denver (CCD), as the Deputy Director of the Crime Lab since February 16, 2014. Your duties and responsibilities as outlined in your job classification and your current Performance Enhancement Plan (PEP) include development of new supervisors and new team members, management and operation of CS, FIU, and CFU, providing performance feedback throughout the rating year and timely completing PEPRs, and performing all administrative supervisory functions, including compliance with Citywide time, pay, and leave procedures.

In June 2016, all three of your supervisors came forward with complaints regarding your conduct toward and supervision of employees in the Crime Lab. After investigation, I learned that these complaints relate to conduct occurring over the past several years, since you became Deputy Director of the Crime

Lab. The following is a summary but not an exhaustive description of the misconduct for which you are being disciplined:

A. EEO Policy/Related Rules and Employee Relations

Several employees have complained that you have made disparaging comments about protected classes. Specifically, four employees stated that you repeatedly made comments such as, "we're not hiring any more women, they bicker too much," women are "too much drama," women are "emotional," or "petty."

You are also alleged to have stated that you would not hire anyone else in the military because of the hardship to the department, or anyone with children because children are a burden and prevent employees from performing well and giving the department the time needed.

When questioned about these allegations, you denied making any of the above comments regarding not hiring women, lesbians, or people in the military. However, you stated that "we really have to look at a person" in the military and "they really have to be good at what they do because the Military leaves them so short all the time . . . we really want to make sure there is someone that's worth it and are really good." This language implies that you place a more stringent standard on applicants in the military than on non-military applicants, and/or that you discriminate against people in the military because they may be "short all the time" (out on deployment).

Eight employees reported that you repeatedly instructed them not to go to Human Resources, "because they're fucking idiots," (in one employee's words), or to Crime Lab Director Greg LaBerge with any complaints or issues, or there would be, in one employee's words, "severe repercussions." Comments of this nature are contrary to the City's and department's open door and EEO policies.

One employee also reported that you told her not to go to [REDACTED] with any concerns, and after the employee did talk to [REDACTED] you told her she "really fucked up." One employee stated that you directed him to conduct a Power Point presentation with the following language, "Follow the Chain of Command at all times. . . . do not discuss possible issues with [REDACTED] or Gregg, without discussing with your supervisor first. Doing so may result in corrective actions to our Unit." One employee reported that you told her it was improper for her to go to Human Resources to seek leave under the FMLA, because it would be on her record and make her look bad. You admitted telling employees not to go to Director LaBerge with "low level stuff that the Director doesn't need to hear" because they are breaking the chain of command. However, you stated that you were fine with employees talking to LaBerge if they had a problem with you or their supervisor. You denied telling employees not to go to Human Resources. Your assertions are contradicted by the statements of employees.

Several employees asserted that you conducted an internal EEO investigation without reporting the incident to, or otherwise involving, anyone in Human Resources. The employees stated that they mentioned that [REDACTED] had been sending text messages to [REDACTED], possibly making [REDACTED] uncomfortable. Instead of advising Human Resources, the employees state that you told them to write statements because the text messages constituted sexual harassment. Two employees, one of whom was [REDACTED] assert that they initially refused to write statements because they did not believe the texts were discriminatory, but you ordered them to write, and then alter to your satisfaction, their statements.

Three employees assert that after this incident, you threatened to move them to the night shift. However, one employee states that she pointed out that this was retaliatory, so you moved only one of the employees to the night shift. [REDACTED] stated that you accused him of sexual harassment and refused his offer to show you the text messages, which were the subject of the accusation, to prove his innocence. [REDACTED] stated that you threatened to terminate him, asked if he had an alcohol problem, despite no evidence supporting such allegation, and told him he needed to "know his place." In a contemplation of discipline letter involving a subsequent incident, you wrote that you were considering discipline based in part on his "history of sexually harassing behavior" - such history based entirely on your unauthorized and inadequate investigation that did not result in discipline. Human Resource Professional Paige McCain stated that she was involved in the subsequent incident regarding [REDACTED], but did not recall your seeking her counsel in the incident with the text messages. You admitted doing your own investigation regarding the text messages but claimed that Human Resources approved this course of action.

A supervisor provided a text message you sent to the supervisor from your cell phone during Super Bowl 50, on February 7, 2016. The text message states, "Get [REDACTED] and [REDACTED] or [REDACTED] and [REDACTED]. The shit will not hit the fan until after the game. We will be the lats [sic] to get called for Mass Arrest. But if we do let's have a crew ready. I don't care if they have had a drink or two. But they can't be drunk." This instruction is inconsistent with Executive Order 94 which states, in pertinent part, that employees are prohibited from being under the influence of or impaired by alcohol while performing City business, while driving a City vehicle, or while on City property. The supervisor also pointed out that prior to the game, employees suggested increasing staff, which you initially rejected, only to change your mind mid-game, after employees were understandably attending Super Bowl parties and consuming alcohol.

When asked if you had ever directed employees to come into work even if they had consumed a drink or two, you denied this, stating that it violated policies to drive a City vehicle after drinking, and averred that whoever said this must be lying. When confronted with the text message, you agreed that it appeared that you sent it, but explained that it was taken out of context. You said, for example, that if an employee had one drink at 6 p.m. and reported to work at 9 p.m., that may not violate policy. Your initial denial of this assertion and subsequent attempt to justify it render your position not credible.

B. Executive Order 112

An employee reported that you regularly brought a gun to the workplace. You admitted bringing a gun to the workplace, but stated that you believed you were permitted to do so because you have a concealed carry permit. All City employees are expected to be familiar with Executive Order No. 112 and, in fact, receive training on that Executive Order when first employed by the City. As a supervisor, it is particularly important that you be familiar with this Executive Order and the prohibitions contained therein.

C. Litigation Holds

Two employees stated that in a meeting, and at various other times, you directed them not to provide documents in response to litigation holds, instead stating, "The Police Department is in possession of all records" and "we're not giving them our black books." The employees explained that the "black books" are notebooks kept by employees that contain their personal notes and diagrams from crime scenes.

Per these employees, the black books are kept at the crime lab, not with the Police Department, and often contain relevant information regarding crime scenes.

You stated in your interview that you did not know what a litigation hold was, as no one explained it to you, but you assumed it meant that certain documents should be preserved pending litigation. You told employees not to worry about litigation holds because they did not apply to the crime lab. You explained that the Police Chief has all pertinent records, and your employees were not permitted to give things out. You stated that employees do keep "black books" with their personal notes and diagrams, but the information in the books is put into crime scene reports, which are sent to the detective working the case. You said that once the reports are sent, "we can delete all we want," because the Chief now has the information. You asserted that all black books are kept in the basement. Your actions with respect to the litigation holds directly contradict Executive Order 65, Records Management, and Memorandum No. 64A, as well as applicable law and Career Service Rules, and create a serious liability risk for the City.

D. Wage and Hour Issues: Standby, On-call, and Overtime

Numerous employees stated that even on their days off, when they are not on call, you require them to be within one hour from Denver and to answer their phones or return your calls within one hour. On June 12, 2014, you sent an email to [REDACTED] confirming that employees "should answer their phone whenever it rings," and "yes, they will be written up if they do not answer." You further stated, "no compensation for answering the phone for a few minutes. If they are on vacation that is the only time the phones should not be answered . . ." In another email, you stated, "If a telephone call is received on your scheduled days off, please make every attempt to answer your phone. However, you will not be paid overtime for answering your phone. . . If you do not answer your phone on scheduled days, this is grounds to be written up." On November 6, 2015, [REDACTED] was written up for failing to timely return a phone call on her day off. When asked about these allegations, you claimed that employees need be within an hour away, and answer their phones within an hour, when they are on call. You said it "doesn't matter" if they answer their phones when they are not on call, and that no one has ever been written up for not answering his/her phone while off duty/not on call. Your assertions directly contradict those of numerous employees and your own emails. Your actions placed all employees on *de facto* standby at all times they are not working.

Consistent with these emails, two employees stated that you told them not to report short periods of overtime. One employee stated that you told her not to report any overtime less than thirty minutes. In response to an email the employee sent you requesting overtime, you responded, on April 3, 2015, "As a Supervisor, I do not expect you to worry about or request 15 minutes here and there. For example, there will be days you will be late, need to get off early, or have personal business to take care of. I will not dock you 15 minutes or for that matter 30 minutes for leaving early. It all evens out. If something goes to the half hour no problem please put it in or request OT." In response to these allegations, you stated that employees email you if they need overtime and that you always pay overtime over 40 hours a week. You stated that even if an employee works five minutes of overtime, you will enter fifteen minutes of OT pay. Your statement to this effect is directly contradicted by the email quoted above.

Several employees stated that you failed to pay them for standby pay while they were in training. One employee stated that when you finally started paying them correctly, you refused to compensate them retroactively. Kronos documents show that [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] did

not receive any standby pay during their three month training periods [REDACTED] received standby pay on one occasion during her training period. Employees in training were not consistently paid standby pay until January 2015. In your first interview, you responded to these allegations by claiming that employees get standby pay if not called out, and time and a half if they are called out. You denied anyone complaining about not being compensated for standby or call back pay. However, you then stated that if time was missed or unpaid, "we don't go back," but would "give them their time" on their current card by letting them leave early. For example, you would let them leave at three and manually clock them out at four, or have a supervisor do it.

In your second interview, you stated that when the crime lab first transitioned from officers to civilians, you did not know that there was a provision for standby pay, because at the time officers did not get standby pay. You stated that within about six months, employees began getting standby pay. You said that employees were always paid correctly and that you never corrected a payment issue by allowing employees to leave early on subsequent shifts, contradicting your statements in your first interview. As a Sergeant and then Deputy Director supervising civilian employees, you are expected to know and comply with the applicable CSA rules regarding standby time.

Two employees reported that you initially refused to allow employees to use comp time for vacation bids. On April 20, 2016, you sent an email to [REDACTED], [REDACTED], and [REDACTED] stating, "For Voted blocks of "Vacation," PTO time must be used. Not "Comp" time . . . the voted block must come out of the PTO bank." That very day, [REDACTED] reached out to Paige McCain, who emailed [REDACTED] and [REDACTED], advising that no rule prevents them from using comp time for vacation, and that the agency in fact prefers that they use comp time. The following day, you emailed the supervisors that "Effective immediately, all CSU personnel will bill [sic] allowed to use Comp time . . ."

You admitted initially refusing to let employees use comp time for vacation. You claimed that you called Commanders and Lieutenants in all six districts, and learned that "there is a mixture, some people let them do it, and some people don't let them." You found that allowing employees to use comp time as vacation was "a little perk." You also claimed that Paige McCain told you that it was "the Commander's choice." You pointed out that you allowed [REDACTED] to use comp time for vacation, and she never thanked you for this "privilege." Contrary to your assertions, granting of comp time is neither a "privilege" nor a "perk". Use of comp time is explained in the CSA rules; it is not up to the "Commander's" discretion whether to allow employees to use comp time for vacation. As a Deputy Director you are charged with understanding and apply all CSA rules. With respect to [REDACTED]'s request for comp time, you stated that you did not deny [REDACTED] time off for her house closing, you merely requested that she change her schedule to accommodate the unit's needs. Despite your attempting to couch it otherwise, your "asking" [REDACTED] to change the date of her house closing was in fact a denial of her request. You did not articulate any specific need for her to do so, indicating that your motive was in fact retaliatory.

Prior to [REDACTED] becoming a supervisor, you appointed [REDACTED] as acting supervisor to fill a vacancy. [REDACTED] said that she asked if she could get acting supervisor pay, and that you told her you talked to someone in Human Resources, who advised you that she was not eligible. When asked to explain your decision, you stated that the CSA rules have no provision for acting supervisor pay. When the investigator corrected you, you stated that the rule must not apply to your unit. Your statements

make clear that you not only failed to read or understand the Career Service Rule governing acting pay, you did not consult with Human Resources.

E. Requiring Compliance with DPD Rules instead of CSA Rules.

Six employees reported that you subjectively decided whether to apply CSA rules or DPD rules. For example, for vacation bidding you imposed a seniority system based on time within the agency, rather than time within the Career Services, until one employee complained to Human Resources. The employees stated that you required adherence to other DPD policies, including dress code, vehicle policies, chain of command, and call back pay. Employees correctly asserted that while CSA rules require a minimum payment of two hours of call-back pay; sometimes you awarded employees a minimum of three hours, per DPD policy.

On August 6, 2015, you sent an email to all employees stating that, "it is necessary to follow many of the Police rules and regulations. The CSA manual has no provisions for most of the work we CSA personnel perform in the Police Department. When reviewing the attachment, please substitute CSA employee where you see Officer." Also in the email, you stated that the vacation vote would take place in November per DPD policies, and referenced portions of the DPD Collective Bargaining Agreement. You advised employees to follow DPD provisions relating to vacation and days off, chain of command structure, persons riding in department vehicles, providing you with their phone numbers and addresses, care and use of department vehicles, accidents in department vehicles, care and use of computer equipment, and working with Auraria Campus police. You instructed all employees to be aware of "City, DPD, and Safety Department rules and regulations."

You acknowledged that the "whole CSA manual" applies to your department, and asserted that you knew it "inside and out." You claim that there is a section in the DPD Ops Manual on dress code that applies to civilians, requiring them to wear their hair and clothing a specific way. However, no such provision exists. You also stated that the CSA rules do not cover shift work for the crime lab, so you had to rely on DPD rules. You stated that you paid employees a minimum of two hours for callback pay, but if the time worked exceeded three hours, you would pay them the actual time worked. Your practices are unacceptable. You are not permitted to decide which CSA rules to follow and which to reject. As a Deputy Director supervising civilians, you are charged with knowledge and application of ALL CSA rules.

F. Violation of Internal Report Writing Policies.

Seven employees alleged that you have altered their crime scene reports, sometimes without their knowledge and with terms that they would not use. Several employees said that they complained to you about this process, but you insisted on keeping the changes. One employee refused to make changes, and you identified her to others as being "insubordinate." The employees explained that their primary concern was truthful testimony in court. If you changed a report without an employee knowing it, he or she may not recognize the language and would have to either admit that it was not the original report or lie on the stand. Greg LaBerge stated he was not aware of your practices, but you should explain all changes to the employees as a "learning moment." The employees referred to the Crime Lab's standard operating procedures and quality assurance manual, which require saving the original report and creating an amended or supplemental report if any changes are made.

You admitted to making changes to original crime scene reports, purportedly because you worked for the DPD for years and know how reports should be handled. You denied making changes to reports without the employees' knowledge. This assertion is contradicted by the employee statements. Further, your failure to consistently create an amended or supplemental report violates your department's procedures and jeopardizes resolution of cases by placing your employees in an uncomfortable position while testifying.

G. Threatening, Retaliatory, and Otherwise Unethical Conduct.

Employees made numerous allegations of behavior that violates the Safety and the City's EEO Policy, Ethics Policy, Fiscal Accountability rules, and other CSA rules.

Crime Scene Investigator [REDACTED] reported that you ordered him to meet with applicant [REDACTED] in order to prepare him for his interview. [REDACTED] stated that he met with [REDACTED] and discussed topics that may arise in the interview. [REDACTED] stated that you told him that someone from the crime scene unit would contact him to give him interview tips. [REDACTED] stated that he met [REDACTED] at an Einstein's Bagels, took notes based on [REDACTED]'s instructions, and that [REDACTED] loaned him his crime scene processing handbook to study for the IAI test. Another employee confirmed that she was present when you phoned [REDACTED] and told him to meet with [REDACTED], and she was in your office on a later occasion when you ordered [REDACTED] to "do it today" after [REDACTED] expressed reluctance at meeting with [REDACTED].

You initially denied ever directing any employees to coach or prep any applicants for the interview process. However, later in the interview with the investigators, you stated, "since you're asking me again . . . I had [REDACTED] . . . tel [REDACTED] give him some interview tips." You denied telling [REDACTED] exactly what to say or do, just said, "he's got an interview coming and see if you can help him out." You further stated that you knew [REDACTED] prior to his applying to the crime lab and did not see anything wrong with directing an employee to meet with an applicant to assist with the interview process. Your initial denial of this very specific situation which you later claimed to suddenly recall is not credible. Your actions demonstrate favoritism, which, combined with you many other inappropriate actions, created an environment of distrust in your department.

[REDACTED] stated that he contacted the District Attorney's office with concerns that your changing crime scene reports without his knowledge could cause him to testify untruthfully. He alleged that you called him at approximately 2:00 a.m. the following morning, while he was working. Per [REDACTED] you stated that "the walls have ears. I know what you did. I know who you're talking to. It's gotten back to Director Gregg LaBerge that you spoke to the DA . . . I'm not going to fire you for this. I'm probably not going to write you up . . . but I want you to know that you are being watched. Anything that happens within these walls of the Crime Lab needs to stay in these walls . . . do you realize that your statements, if those would get out into the Public Defender's Office, what kind of problems that would cause for us, for the Director, for the Crime Lab." [REDACTED] stated that he was "rattled" after the phone call and fearful for his job and his family. Another employee on the night shift stated that she was standing next to [REDACTED] when he received the call from you and overheard part of the conversation.

You acknowledged learning from LaBerge that a different employee, [REDACTED] complained to a district attorney about report changes. You denied hearing that [REDACTED] complained to the District Attorney and speaking to or threatening either [REDACTED] or [REDACTED] about this issue. Mr. [REDACTED]'s statements are consistent with other allegations made about you by your employees. It is also consistent

with statements you have made in emails and other correspondence about "keeping our business" inside the unit. Your actions are threatening and retaliatory, in violation of CSA rules.

Several employees alleged that you revealed confidential information to them about other employees. For example, five employees said you told them that [REDACTED] could not be hired initially because of her marijuana use, which you learned about from Human Resources. Some of these employees assert that you referred to [REDACTED] as [REDACTED] or just [REDACTED]. Some employees also stated that you told them [REDACTED] was not given a polygraph test because he would have failed it because of his marijuana use. One employee stated that you told him that you learned from employee [REDACTED] s polygraph test that he had a history of theft, and to "watch out" for him. You admitted telling [REDACTED] about [REDACTED] because even though the theft he admitted to occurred twelve years prior; you thought [REDACTED] should keep an eye out.

Two employees asserted that in or about January 2016, you told them that [REDACTED] may be having an affair with a married officer, that you saw her hugging the officer at a holiday party, and that officers told you that [REDACTED] s car was spotted at the officer's house during [REDACTED] s shift. Per these employees, you asked them if they know who [REDACTED] was sleeping with, and that you told them to keep an eye on her. Another employee stated that you told him that [REDACTED] was screwing around with a cop when she was supposed to be on duty.

[REDACTED] reported that two months later, in March 2016, you called her into an open conference room with no door and told her that her car was seen parked outside an officer's house during her shift, suggesting that she was conducting an affair with the officer while on duty. She denied the allegations and asked for more detail as to dates and times, but you refused to provide it. She stated that she handed you her keys and offered to let you view the GPS records from her car, but you demurred, repeatedly telling her to "just stop it." [REDACTED] stated that this conversation occurred the very day that she was to interview for a promotion; she says this is consistent with your attempts to put people in their place or keep them down.

In your first interview, you claimed that you initiated the conversation with [REDACTED] because you thought it appropriate to warn her about the allegations you heard. You admitted to telling [REDACTED] about seeing [REDACTED] hug an officer a long time at a holiday party, because [REDACTED] first mentioned the incident to you. You denied telling anyone else about the holiday party incident, or anyone other than [REDACTED] about her car allegedly parked at a married officer's home. You said that you didn't check [REDACTED] s GPS logs because doing so would cause you "brain damage," and you can't investigate everything.

In your second interview, you added that you confronted [REDACTED] "within days" of hearing the rumor, and that prior to doing so, you checked with the Electronic Engineering Bureau to see if you could confirm the rumor by checking the GPS on [REDACTED] s car. However, you stated that you learned that [REDACTED] did not have GPS on her car. The story you told in your second interview is inconsistent with the representations you made in your first interview. Your assertion that you confronted [REDACTED] "within days" contradicts two employees who stated that you told them of these rumors in January, two months before you spoke to [REDACTED]. Your spreading of confidential information and rumors violates CSA rules and creates distrust in the department.

Former employee [REDACTED] stated that in March 2014, she told you she could not work because she had hurt her knee. Per [REDACTED] [REDACTED] showed up at her house at 9:30 that

evening, stating that you did not believe that she was injured and ordered [REDACTED] to see if you were home. [REDACTED] did not let [REDACTED] in the door because she was in her pajamas icing her knee. Ms. [REDACTED] complained to Paige McCain about this incident, who confirmed it with [REDACTED] and with you. Paige McCain stated that she told you it was inappropriate to "check up" on an employee who had called in sick. [REDACTED] stated that despite Ms. McCain's instructions, you then held a meeting and advised the employees that you were free to go to their homes and check up on them. Per a memorandum issued by Paige McCain on June 9, 2014, in May 2014, [REDACTED] told her that you were retaliating against her for going to Human Resources after her knee injury and for making other complaints. She stated that you gave her a Corrective Action Report and directed her to complete remedial training. Ms. McCain met with [REDACTED] on May 20, 2014, and one week later, [REDACTED] resigned. When asked about this situation, you generally admitted the allegations, but insisted that [REDACTED] had lied to you about her injury. You said that Paige McCain told you that you were allowed to go to an employee's home to conduct an investigation, but that it was better that you did not. You admitted to putting [REDACTED] on remedial training shortly after this incident, but insisted it was due to her poor performance in obtaining latent prints. Contrary to your assertions, Ms. McCain stated that she told you that checking up on employees by going to their homes was inappropriate and prohibited. Your actions were unprofessional.

Three employees stated that you directed them, while they were on duty, to pick you up from a car dealership in Arvada and drive you home. Three employees stated that you have directed them to take your wife home during snowstorms, also while they were on duty. You admitted to asking employees who were on City time to transport you and your wife to various places. You justified this by stating that your home and the others locations are within the 25 mile city radius. Asking or directing an on duty employee to drive you or your wife anywhere that was not job related violates the City vehicle policy.

Four employees stated that you called them into your office, handed them a list of alleged work infractions, and either forced them to sign it and/or threatened to terminate them. Each of these employees stated that they had no opportunity to defend themselves, that the items on the list were false, that they had never been told before of the infractions, and that they had no prior discipline. You denied keeping written "lists" of employee infractions. You repeatedly explained that you are really nice to "these people" and they are complaining only because you hold them accountable. This practice is inconsistent with the City's policies regarding performance evaluation and progressive discipline; it is also threatening and inappropriate.

Nearly all the employees interviewed described the workplace as hostile, toxic, abusive, and, at a minimum, uncomfortable. They described examples of scenarios where you have pitted employees against one another, spread lies about one employee to another, asked employees (not only supervisors) to write down criticisms of other employees, exacerbated employee conflict rather than deescalate it, overall creating an environment of distrust. In their exit interviews, three former employees described the crime lab environment as unethical and abusive, and you as a bully.

Your disciplinary history:

None.

A pre-disciplinary meeting was held with Deputy Chief David Quinones at 10:00 a.m. in conference room 302. Also present at the meeting were your attorney Whitney Traylor, Senior Human Resource Professional Wendi Prince, and Assistant City Attorney Kristin George. The purpose of the

meeting was to provide you the opportunity to correct any errors in the pre-disciplinary letter, to tell your side of the story, and to present any mitigating information as to why disciplinary action should not be taken. The written and verbal statements you provided at the pre-disciplinary meeting, as well as your work history, were given full consideration in reaching the disciplinary decision.

At the start of the pre-disciplinary meeting, your attorney presented a sixteen-page letter in response to the Notice of Contemplation of Discipline. During the pre-disciplinary meeting, your attorney summarized the contents of the letter. Through your attorney, you acknowledged that your statements about the military could be construed in a way that suggests discriminatory intent. You also admitted that you were following the DPD operations manual when you instructed employees to "follow the chain of command."

You admitted that you occasionally brought a gun to work, but incorrectly asserted that you had a right to do so as a retired police officer. You did not respond to the allegation that bringing a gun to work violates Executive Order 112. You admitted sending a text message to supervisors instructing employees to come into work even if they had had a drink or two, but claimed that no one off duty reported to work that night. While your text message was inappropriate and demonstrated poor judgment, we agree that there is no evidence that Executive Order 94 was violated, so we have withdrawn that allegation.

You admitted that you did not know exactly what a litigation hold was, or what was required of you, nor did you make any attempt to learn. You further acknowledged that you relied on the DPD Operations manual, incorrectly asserting that "there was no stated policy" regarding litigation holds. You neglected to respond to the reference to Executive Order 64, Records Management, and the accompanying memoranda, which provide detailed policies for litigation holds.

You implicitly admitted that you required employees to answer phones even on their days off, claiming that this was CSU and DPD policy. However, you did not provide the source of any such policy, nor did you respond to the allegation that this practice violates the City's on call and overtime rules. You claimed that Paige McCaine instructed you that employees should receive fifteen minutes of overtime for speaking to District Attorneys on their days off and that you followed this policy. However, you did not acknowledge that this assertion contradicts emails you sent telling employees not to request "15 minutes here and there" and "you will not be paid overtime for answering your phone" on scheduled days off, or that they should request overtime only for periods of thirty minutes or more. You did not respond at all to the allegation that you failed to consistently pay employees standby time until January 2015.

You admitted that there was "some confusion" regarding the use of employee comp time. You admitted that you required compliance with DPD rules instead of some CSA rules, but acknowledged during the meeting that no one had ever told you to disregard any of the CSA rules. Your personal opinion that CSA rules do not "adequately" explain certain procedures is irrelevant and does not excuse your failure to adhere to these rules.

With respect to changing employees' crime scene reports, you appeared to admit that you did not create supplemental or amended reports as required by the Crime Lab operating procedures, but asserted that Versadex automatically creates a new supplemental report. We have consulted with individuals knowledgeable in Versadex who dispute this assertion. In order to create a supplemental report, you must do it manually.

You admitted that you "asked" [REDACTED] to meet with [REDACTED] to assist him with his interviewing skills, and you understand how this conduct could be construed as favoritism. Through your attorney's letter and your own statements at the meeting, you admitted for the first time that you were aware that [REDACTED] had reported concerns of your changing reports to the District Attorney, that Greg LaBerge informed you of it, and that you spoke to [REDACTED] about it, emphasizing that the chain of command should be followed. These statements contradict those made in your first interview, when you denied knowing that [REDACTED] went to the DA or speaking to him about it.

You admitted that you told employees of [REDACTED] s marijuana use and agree that it was a "lapse in judgment." You admitted telling [REDACTED] of [REDACTED] s history of theft and of your concerns that [REDACTED] was having an affair with a married officer. You admitted inappropriately sending [REDACTED] to "check up" on [REDACTED] because you thought she was lying about being injured. With respect to improper use of city vehicles, you admitted that you once directed an employee to drive your wife home during a snowstorm and "requested" rides from employees using city vehicles on three occasions.

Overall, you acknowledged making mistakes in your role as Deputy Director of the Crime Lab. Your performance consistently fails to meet the standard of a Deputy Director in the City of Denver.

You may appeal this discipline in accordance with Career Service Rule 19, Appeals. You may also initiate dispute resolution pursuant to Career Service Rule 18, Dispute Resolution. Please note, however, that pursuit of dispute resolution will not toll the time limitation for filing an appeal.

Sincerely,


Deputy Chief of Operations David Quinones

cc: Chief Robert White
Traci Green
Wendi Price
Kristin George
Whitney Traylor