

**I.A. 16IA-011**

State of Colorado, County of Douglas  
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Darren M. Weekly

Sheriff of Douglas County

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**NOTIFICATION OF FINDINGS**

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5 Pages

TO: Sgt. Mark Tracy

DATE: May 31, 2016

FROM: Chief Deputy Tim Moore 

SUBJ: **DISPOSITION**

You are hereby notified that the investigation of alleged misconduct has been completed. The final disposition is shown below.

<u>SECTION #</u>	<u>NATURE OF VIOLATION</u>	<u>DISPOSITION</u>
C-101 (II)(HH)	Unsatisfactory Performance	Sustained

**FACTS IN SUPPORT OF FINDING:** On March 29, 2016, an anonymous complaint was received by the Douglas County HR Dept. That complaint was forwarded to DCSO Professional Standards to be investigated. The allegation was that Dep. [REDACTED] was receiving preferential treatment from Sgt. [REDACTED] while they were both assigned to the Graves-A team during 2015. Sgt. Tracy was the co-Sergeant on this team. It was also alleged that Dep. [REDACTED] was being given credit for attending In-Service Trainings while she was on modified duty and because of her injury, she could not participate in the training but was given credit for it by Sgt. [REDACTED]. It was also alleged that Dep. [REDACTED] was leaving early from shifts and was getting a full 10-hrs of work credit on the her time sheets and that she was getting paid for a full shift(s) when she was leaving early and this was occurring on a regular basis. An internal investigation was conducted by Sgt. [REDACTED] of the Professional Standards Unit. In the course of the investigation, Sgt. Mark Tracy was interviewed regarding his knowledge of the allegations made towards Dep. [REDACTED] and Sgt. [REDACTED].

Captain [REDACTED] reviewed the completed case for discipline and found that it was clear Sgt. Tracy had obvious knowledge of the inappropriate relationship between Dep. [REDACTED] and her direct supervisor, Sgt. [REDACTED]. It also showed that Sgt. Tracy had repeatedly dismissed a deputy who was bringing this information to him and that Sgt. Tracy had repeatedly given Dep. [REDACTED] improper guidance in how she was to maintain and complete her monthly timesheets. A final interview of Sgt. Tracy was completed by Captain [REDACTED] on 05/17/16, where he determined that Sgt. Tracy had violated policy through Unsatisfactory Performance.

**INVESTIGATION SUMMARY RE: SGT. TRACY:** At the completion of the investigation, it was found that Sgt. [REDACTED] and Dep. [REDACTED] had been involved in a long-term intimate relationship while Sgt. [REDACTED] was Dep. [REDACTED] direct supervisor. It also showed many hours of time was documented on Dep. [REDACTED] timesheets during a period between August 2015 and January 20, 2106 where she was not working in the facility and being paid for work not being performed. Many of the discrepancies were approved by Sgt. Tracy who directed Dep. [REDACTED] on two known times to document a 10-hr work day on the time sheet even though he knew she was not working on the day claimed. Captain [REDACTED] noted that the investigation also found:

- The proximity card records from Augusts 12, 2015 thru January 20, 2016, showed that Dep. [REDACTED] had about 57.5 hrs. claimed on her timesheets showing her working in the facility but the proximity card records showed that she had left the facility.
- The workers compensation (WC) records showed that from August 24, 2015 thru January 12, 2016, she only documented 4.0 hrs. on her timesheet for WC appointments, this was for 2-visits (4.80 hrs.). But during that time, the WC records show that she had 6-visits/follow-up with her WC doctor. Four of the Six WC appointments were not reflected on her timesheet.
- The WC policy (P&P-L-103 (II) E was not followed repeatedly from the periods of November 26, 2015 thru December 23, 2015 and that during that time she rescheduled 10.0 hrs. on her timesheets where she was not at work and not following policy on proper documentation for the WC appointments.
- Dep. [REDACTED] explained that it was Sgt. Tracy who told her to log the hours as she did and that she would accumulate extra hours and then just comp. them out.
- She did acknowledge that she was notified by [REDACTED] at the County that she was not completing her timesheets correctly and that she could not put the WC hrs. on her timesheet as extra hours.
- Dep. [REDACTED] claimed that she was not aware of the proper way to complete her timesheet for her WC time.
- Captain [REDACTED] also asked Dep. [REDACTED] if at any time when she was claiming hours she didn't work, rescheduling hours that could not be accounted for, did she or her Sergeants review any of the policies on this issue to determine if it was being done correctly. She said that she never reviewed any policy and her Sergeants never met with her to discuss the various policies on these issues.
- On January 12, 2106, Dep. [REDACTED] logged 6.0 hrs. as regular time and 2.0 hrs. as extra hours and her proximity card records showed her to have only been at the facility for 23-minutes. Dep. [REDACTED] confirmed that it was Sgt. Tracy who told her (and at least four others on the team) to claim 10.0 hrs. when they did not work on January 20, 2016 when the annual shift change was occurring.
- Dep. [REDACTED] also confirmed that it was Sgt. Tracy who told her to claim 10.0 hrs. on a Sunday when she didn't work, because she had been temporarily assigned to a Crew Leader position on Monday. She acknowledged that she did work the Monday and claimed 10.0 hrs. but didn't work on Sunday and claimed 10.0 hrs.

On May 17, 2016 at 3:38 pm., Captain [REDACTED] interviewed Sgt. Tracy and Sgt. Tracy told him:

- The first In-Service training in question was the Below 100 & Law Fit training and the second was the ACT training. He did confront Sgt. [REDACTED] on why he was allowing Dep. [REDACTED] to attend the training and did remind him that policy states that officers on modified duty are not supposed to attend these trainings because they cannot participate. Sgt. [REDACTED] told Sgt. Tracy that he approved Dep. [REDACTED] to attend both of these trainings and he did so because he wanted her to get credit for the training. Sgt. Tracy acknowledged that he knew this was wrong but never notified his direct supervisor (Lt. [REDACTED]) of these violations.

- Sgt. Tracy claimed that he never saw any preferential treatment given by Sgt. [REDACTED] to Dep. [REDACTED] because he (Tracy) was more focused on the "day-to-day grind." He said he was only focusing on running the jail during his shifts and not focusing on Sgt. [REDACTED]
- When confronted on why he failed to notify his Lieutenant at any time during this entire period where all of these complaints, concerns, and his own suspicions were brought to his attention. Sgt. Tracy could only respond saying he, "can't give a good reason to why I didn't notify my supervisor." He said, "I thought it had been taken care of."
- When asked if he ever thought to read/review the policies regarding workman's compensation, modified duty, timesheets, or contact [REDACTED] Sgt. Tracy said he did not do any of these things. When asked about allowing Dep. [REDACTED] to claim a full 10 hrs. on a Sunday when she didn't work because she was TDY'd to Crew Leader on Monday, and then allowing her, and four other deputies to claim 10 hrs. at the year-end shift change, Sgt. Tracy said that he had spoken with [REDACTED] with the county Finance Dept. several months earlier and [REDACTED] advised him that this practice was OK and that these are "admin days." Sgt. Tracy tried to explain that months earlier, this issue had come up regarding Dep's on Graves-A working Sun – Wed's but who are scheduled to attend a training on a Monday. He claims [REDACTED] said that they were to put 10 hrs. on the timesheets for Sunday and these were "admin days" knowing the Deputies were not working. This way they could come to the daytime class that week and not lose any time.
- Sgt. Tracy did confirm that Dep. [REDACTED] did come to him numerous times with her concerns and allegations that Sgt. [REDACTED] was having this inappropriate relationship, that Dep. [REDACTED] was being allowed to routinely leave early while being paid for a full shift and that she was being allowed to attend In-Service trainings when she is on modified duty. He did acknowledge that he told Dep. [REDACTED] to stop spreading rumors and took no action.
- Sgt. Tracy confirmed that Sgt. [REDACTED] did come to him with the same concerns and this is when he and Sgt's [REDACTED] and [REDACTED] decided to meet with Sgt. [REDACTED] It was agreed by these three Sergeants would sit down with Sgt. [REDACTED] tell him of the complaints and concerns and "get him to stop." When they met with Sgt. [REDACTED] they told him about him being seen with Dep. [REDACTED] at breakfast in Castle Rock, again at a Car Show after work up in the Denver area. They told him that he was having an inappropriate relationship with a subordinate officer and their message was, "This has to stop!"
- Sgt. [REDACTED] did not speak during their conversation with him and only stood up at the end, said "thank you" and walked out. I asked if he believed that Sgt. [REDACTED] was open to their input and concerns and Sgt. Tracy said he wasn't sure. He did say after this meeting there were "no more rumors," Sgt. [REDACTED] and Dep. [REDACTED] "stopped going to the medical unit together to get their blood pressures checked," and that he "didn't see anything inappropriate."
- When asked again, why after this meeting and the clear message that Sgt. [REDACTED] displayed in not taking their advice, didn't he then go to his Lieutenant to tell him what was going on. Sgt. Tracy again said that he was just trying to keep it at the lowest level and did not want to start an investigation. He repeated that "in hindsight" he should have gone to his supervisor. He did say that he thought at one time he did tell Lt. [REDACTED] that he [REDACTED] should "keep an eye on Parkers timesheet." He also said that Lt. [REDACTED] told him when giving him (Tracy's) evaluation, that he made mention that he know Sgt. Tracy was alone a lot during the year. Note: On 5/19/16 Captain [REDACTED] met with Lt. [REDACTED] who was adamant that at no time did Sgt. Tracy ever tell him anything regarding Dep. [REDACTED] timesheets. Captain [REDACTED] believed that this was an attempt to shift some of the responsibility from himself to Lt. [REDACTED]

Additionally, Captain [REDACTED] concluded that Sgt. Tracy committed the policy violation of Unsatisfactory Performance by:

- During the course of 6-months, Sgt. Tracy failed to take appropriate action required by any supervisor working for DCSO when they are made know of possible severe policy violations,

allegations of inappropriate relationships between a supervisor and a subordinate, and that repeated complaints and “rumors” were made known to him.

““I believe that Sgt. Tracy had ample opportunities to bring the concerns to the attention of his commanding officers to intervene and potentially stop the policy violations and bring an end to the inappropriate relationship between Sgt. [REDACTED] and his direct subordinate, Dep. [REDACTED]. These opportunities were:

- When Sgt. Tracy confronted Sgt. [REDACTED] on two separate occasions because Sgt. [REDACTED] was allowing Dep. [REDACTED] to attend In-Service training so that she could obtain credit for these trainings, and knowing that deputies on modified duty are not allowed to attend/participate in these trainings, Sgt. Tracy should have brought this to the attention of the commanding officers of Detentions.
- When Sgt. Tracy was repeatedly contacted by Dep. [REDACTED] who was bring him her complaints and concerns about the trainings, Dep. [REDACTED] leaving early on a regular basis, and that she knew they were involved in an inappropriate relationship. Sgt. Tracy should have made these complaints known to the commanding officers of the Division and not dismissed Dep. [REDACTED] by telling her to “*stop spreading rumors.*”
- When Sgt. Tracy was contacted by Sgt. [REDACTED] with the same allegations and concerns, and the intervention with Sgt’s [REDACTED] Tracy and [REDACTED] was done, and it was clear that Sgt. [REDACTED] had no intention on listening to their concerns, and the details of their concerns and their attempted intervention should have been immediately brought to the attention of the commanding officers in Detentions.
- Sgt. Tracy’s claim that he, “*is not [REDACTED] keeper,*” and that what Sgt. [REDACTED] does when he is off-duty is none of his business, shows a clear lack of responsibility as a supervisor for this office.
- I believe that Sgt. Tracy was fully aware that there was an on-going intimate relationship between Sgt. [REDACTED] and Dep. [REDACTED] and knowing this, or in his words, “*it was fairly obvious.*” Sgt. Tracy had a duty to bring this to the immediate attention of the commanding officers of the Detention Division. I also believe that Sgt. Tracy showed a complete failure in competency as a supervisor in his failure to research and educate himself on the policies and procedures involving workman’s compensation, modified duty and timesheets.
- I also believe this investigation showed that on numerous occasions that Sgt. Tracy gave improper and incorrect information to his officers on how to document their timesheets.””

**CHIEF MOORE CONCLUSION:** Specific to the time sheets submitted by Dep. [REDACTED] the core issue found during this investigation was that on several occasions, she did not accurately record her true hours worked and taken off when trying to recover hours she spent at a Workers Comp (WC) doctor during non-duty hours. She did not follow DCSO policy with regards to when she could claim WC time, was allowed to accumulate this time spent at the doctor in exchange for time taken off. Sgt. Tracy allowed this to occur and did not ensure she followed policy. As a result, she was allowed to accumulate WC time in lieu of time off that others in a similar position were not because those others followed policy.

Sgt. Tracy knew, or should have known, that Sgt. [REDACTED] was having an intimate and highly inappropriate relationship with his subordinate deputy, recognized this as a serious policy violation, and reported it to Professional Standards or his direct supervisor, which he did not. He took the most minimal action, trying to handle the issue at his level and kept this important information from his supervisor, thus incurring possibly serous liability for the Sheriff’s Office.

Sgt. Tracy took little to no action to verify, investigate, or report information reported to him by another deputy regarding the inappropriate relationship between Dep. [REDACTED] and Sgt. [REDACTED] which allowed repeated policy violations by Sgt. [REDACTED] to continue for some time. He should have taken proper action and investigated further, not dismissed the deputy.

Member served with a copy of this **Notification of Findings** on 05/31/16 by email .

Member signature and OSN X

Server signature and OSN T. Moore 9012 TMM 5-31-16

Member is to receive a copy of this **Notification of Finding** and copy to be retained with the Internal Affairs investigation folder.

The Internal Affairs Section is an investigative entity and does not impose corrective or disciplinary sanctions on members whose allegations of misconduct have been sustained.