IN THE MATTER OF ARBITRATION	)	**GRIEVANCE ARBITRATION**
	)	
between	)	
	)	**Ray Laudenbach -**
City of Hopkins, Minnesota	)	**Discipline**
	)	
-and-	)	**BMS Case No. 13-PA-0536**
	)	
Hopkins Police Officer's	)	
Association	)	**September 6, 2013**

))))))

The Arbitrator, Richard John Miller, was selected by the Employer and Union (collectively referred to as the "Parties") from a panel submitted by the Minnesota Bureau of Mediation Services. A hearing in the matter convened on June 26, 2013, at 9:00 a.m. at the Hopkins City Hall, 1010 First Street South, Hopkins, Minnesota. The hearing was tape recorded with the Arbitrator retaining the tapes for his personal and private records. The Parties were afforded full and ample opportunity to present evidence and arguments in support of their respective positions.

The Parties' legal counsel elected to file electronically post hearing briefs, with receipt by the Arbitrator no later than August 9, 2013. The post hearing briefs were submitted in accordance with that deadline date. The Arbitrator then exchanged the briefs electronically to the Parties' legal counsel on August 10, 2013, after which the record was considered closed.

The Parties agreed that the grievance is a decorous matter within the purview of the Arbitrator, and made no procedural or substantive arbitrability claims.

ISSUES AS STIPUATED TO BY THE PARTIES

1. Did the Employer have just cause to issue a one-day suspension without pay to Detective Ray Laudenbach?

2. If not, what is the appropriate remedy?

STATEMENT OF THE FACTS

The facts are not in serious dispute. At approximately 9:00 p.m. on October 24, 2012, Sergeant Darin Hill of the Hopkins Police Department spoke with Hopkins Police Officer James Niemackl. He issued an order to Police Officer Niemackl that all staff must leave the Hopkins Police Department until further notice, without disclosing the reason for his order. Sergeant Hill told Police Officer Niemackl to convey the order to all staff working the night shift that evening. Police Officer Niemackl was specifically told that Sergeant Hill and Hopkins Police Captain Brent Johnson would be leaving the City for a period of time to perform a detail that was private, and Police Officer Niemackl would be serving as the Officer in Charge ("OIC") until Sergeant Hill returned to the Police Station. As OIC, Police Officer Niemackl was entitled to additional compensation under the Collective Bargaining Agreement.

Unbeknownst to the night shift staff at the time, and while the staff was excluded from the Police Station, Sergeant Hill and Captain Johnson engaged in the "private detail" of removing personal items belonging to another Hopkins Police Department employee (who will be referred to as "Officer" under the agreed-upon Protective Order, signed before the arbitration hearing by the Arbitrator and the Parties' legal counsel). The Officer was

the subject of a criminal investigation at the time and subsequently an internal affairs ("IA") investigation. Sergeant Hill then delivered the Officer's personal property to his residence and then returned to the Police Station.

Sergeant Hill and Captain Johnson completed the administrative task at about 10:17 p.m., at which point Sergeant Hill advised Police Officer Niemackl and other staff that they could return to the Police Station. No reason was given at that time as to why the staff was ordered to leave the Police Station.

The following morning on October 25, 2012, then Detective Ray Laudenbach (now Police Officer) arrived to work at the Police Station as normal. No Police Officer was asked to stay away from the Police Station, and the morning shift briefing took place within the Police Station. A short time later, Police Officer Niemackl, Detective Laudenbach, Police Officer Stacy Lakotas, and a Public Service Officer (who will be referred to as "PSO" under the agreed-upon Protective Order, signed before the arbitration hearing by the Arbitrator and the Parties' legal counsel) had breakfast at a restaurant in downtown Hopkins. During breakfast, the group discussed the never-before-experienced order to leave the Police Station. None of them knew why the order was given, however several likely possibilities were discussed. One of those possibilities

presented was that a Police Officer was being terminated that day. (Employer Exhibit #4). Another theory was that the Police Department was laying off another employee. (Employer Exhibit #3). Another theory was that it pertained to a recent IA investigation of the Officer by the Police Department. (Employer Exhibit #5).

The IA investigation of the Officer was subject to an e-mailed instruction to all Police Department employees from Police Chief Mike Reynolds on September 18, 2012, which stated, "Effective immediately, [the Officer] has been placed on administrative leave pending an investigation. Any questions concerning this need to be brought to me." (Association Exhibit #2).

Police Officer Niemackl, who was a Union representative, had recently been addressing questions from the Union members about their own jobs and whether a recent spate of firing and other sudden terminations would continue. Police Officer Niemackl therefore suggested that it would be possible to review the Police Department video tapes to find out what was going on during the time the staff was ordered to leave the Police Station by Sergeant Hill on the previous night shift.

The Hopkins Police Department maintains a video security system which records, among other images, the activity passing through a door exiting the Police Station going into the parking

lot. All Police Officers working at the Police Station have access to the security system on their desktop computers, though not all Police Officers know how to use it. There is no password protection on the security system and any Police Officer can review the tapes. There is no Police Department policy classifying the data collected by the surveillance system as private data. Thus, unless otherwise classified, the video is public data similar to traffic cameras.

After returning to the Police Station after breakfast, Detective Laudenbach accessed the camera recordings from the prior night shift. He viewed the recording of the door exiting the Police Station, and there he saw Sergeant Hill carrying out to the parking lot what appeared to be gun cases. To Detective Laudenbach, this suggested that Sergeant Hill's order to leave the Police Station had something to do with the Officer's IA, and not with another Police Officer termination, lay-off or other criminal misconduct. That was sufficient information for Detective Laudenbach, and he passed along some limited information to the PSO and Police Officer Lakotas.

On November 8, 2012, Sergeant Hill was contacted by Captain Johnson and was advised that Police Officer Niemackl had made comments to Sergeants White and Struck about Police Department employees reviewing the Department's video surveillance tapes on October 25, 2012, which determined the reason for Sergeant

Hill's order to leave the Police Station. As a result, Captain Johnson directed Sergeant Hill to initiate an investigation to determine if Police Officer Niemackl or other members of the Police Department directly violated Sergeant Hill's order to stay away from the Police Station on the evening of October 24, 2012, or violated his order by reviewing the surveillance camera tapes afterward. (Employer Exhibit #2).

Sergeant Hill conducted Garrity interviews with several Police Department employees, including Police Officers Niemackl and Lakotas, Detective Laudenbach and the PSO. (Employer Exhibits #2-7). After his completion of the interviews, Sergeant Hill made the following conclusions on November 28, 2012, in relevant part:

> **Officer Niemackl**: I find that Officer Niemackl indirectly violated my order to stay away from the Police Department. I further find that Officer Niemackl violated the directive issued by the Chief in his email dated 09-18-2012.
>
> - He discussed the possibility of reviewing the video surveillance footage with PSO Bakeberg who declined.
> - He also discussed the exclusion from the Department with the oncoming shift and the possibility of determining what had happened by reviewing the video surveillance.
> - His interest was such that Officer Lakotas felt it necessary to text him the results of their inquiry into the video system.
>
> **Detective Laudenbach**: I find that Detective Laudenbach violated my order to stay away from the Police Department and the directive issued by the Chief in his email dated 09-18-2012.

- By reviewing the surveillance video with the idea that it had something to do with [the Officer] and his property.

- Once the video was reviewed and he determined that it did involve [the Officer], he advised Officer Lakotas of his findings and had her look at a paused image on the surveillance system.

- He also talked to [the PSO] about what he had seen on the video.

Officer Lakotas: I find that Officer Lakotas violated the directive issued by the Chief in his email dated 09-18-2012.

- By passing on information regarding the paused image she observed to Officer Niemackl and Officer Pilon after it was determined to involve [the Officer].

Officer Pilon: I find that Officer Pilon did not violate my order or the Chief's email. He did pass on information to Officer Niemackl at Officer Lakotas' request but he denied speaking with anyone as to why I would be performing the task I did on the video.

PSO: I find that [the] PSO violated my order to stay away from the Police Department.

- She reviewed the surveillance tapes after Detective Laudenbach had told her he had done so.

(Employer Exhibit #2, p. 9).

Chief Reynolds reviewed the conclusions reached by Sergeant Hill and based upon their specific involvement, he issued the PSO, a civilian employee with a short time on the Police Department, who viewed the surveillance video, a counseling memo. (Employer Exhibit #9). Detective Lakotas was issued a letter of reprimand for insubordination and her role in

conducting an investigation into police administration. Detective Lakotas notified another Hopkins Officer, confirming the order had to do with the Officer, after she viewed a still shot of the video footage of Sergeant Hill and Captain Johnson. Id. Police Officer Niemackl was issued a one-day suspension without pay for insubordination, and his role in suggesting the internal video surveillance system could be reviewed to find out why Police Officers had been ordered out of the Police Department, and for suggesting to PSO Bakeberg, a probationary employee, that he should view the surveillance video. PSO Bakeberg declined to do so, stating it was wrong.

Detective Laudenbach was issued a one-day suspension without pay for insubordination for accessing the surveillance system and viewing the tape, telling the PSO of his discovery, and calling Police Officer Lakotas to his location to view a still shot of the footage. (Employer Exhibit #1).

The Union, on behalf of Detective Laudenbach, filed a written grievance on December 26, 2012, protesting the one-day suspension without pay. (Joint Exhibit #1, p. 3). The grievance stated that "[t]he Grievant believes that the discipline issues was too severe and asks that his discipline be reduced from a one day suspension to a written reprimand." Id. The grievance was denied by the Employer at every step of the contractual grievance procedure. Id., pp. 1, 4-8.

Detective Laudenbach, the Grievant in this case, was the only employee who grieved the disciplinary actions taken by the Employer in this incident, leading to the present arbitration.

UNION POSITION

The Grievant did nothing wrong, so no amount of discipline is justified in this case. The order to leave the Police Station was given to the night shift Police Officers, and the night shift Officers were allowed to return to the Station at least seven hours before the Grievant arrived for his day shift work.

They were given no instruction but to leave the Police Station for a short period of time, and they all did so. After the Police Officers were given the okay to return to the Police Station, the order had no further practical effect. The order expired. The night shift Police Officers were not ordered not to discuss the order. If the order expired, then there was no way for the Grievant to have violated it.

Even if the order still had some lingering effect, the e-mailed instruction to refer questions to Chief Reynolds did not apply. None of the Police Officers involved cared what action was being taken regarding the IA, so none of them had any questions to pose to Chief Reynolds.

If the act of determining the subject matter of the order could somehow be construed as disobedience, then a one-day

suspension without pay is grossly disproportionate to the offense and is therefore not just. The Grievant is a senior Police Officer with a spotless discipline record. Of the three other Police Officers at breakfast that morning, only Police Officer Niemackl received a one-day suspension without pay. But, Police Officer Niemackl was the only one to have directly heard the order, he was the Police Officer in charge when the order was given, he was the one to have informed the group at breakfast of the order, and he already had a significant history of discipline and corrective actions with the Police Department. The other two Police Officers, who are both female, received written reprimands. Plus, all the Police Officers testified they did not believe they violated any Police Department orders and gave reasons why they did not grieve the discipline imposed. At most, the Grievant should have also received a written reprimand.

CITY POSITION

The Employer has met the burden of proof to discipline the Grievant. The Grievant admitted both during his IA statements and at the arbitration hearing he engaged in the misconduct which lead to the one-day suspension without pay.

Presently, insubordination is at issue, and the fundamental order of a paramilitary police department. Chief Reynolds took into consideration typical factors to be assessed in a

disciplinary decision, in the context of a paramilitary structure. He determined a one-day suspension without pay was appropriate. Arbitrators should not disturb a proper penalty made by management when, as in the present case, it is determined in good faith, by a fair investigation, and is consistent with other like cases.

The viewing of the video by the Grievant the day after the order amounted to spying on the actions of Sergeant Hill and Captain Johnson, and circumvented the direct order which was issued. Chief Reynolds testified that in his mind viewing the video was the same as if the Police Officers disobeyed the order to leave the Police Department, and stayed behind to observe Sergeant Hill and Captain Johnson's activities.

The Union argues there is no policy on the use of the surveillance video system, and therefore the expectation of its use was not clear. This absurd argument should not be permitted to excuse the Grievant’s action of insubordination by undermining the paramilitary structure of the Police Department. Instead it is a reasonable expectation, especially from a senior Police Officer with the training and supervisory experience of the Grievant, to expect him to know it is inappropriate to spy on or circumvent a direct order issued by a supervisor.

The Grievant was aware of Police Department policies, the order from Sergeant Hill, as well as the Department's mission

statement, and admitted to understanding the concept of insubordination in a paramilitary structure. His conduct was insubordinate to his superior officers and violated Police Department policy. It is important to remember that the Grievant had the intent to confirm the theory discussed at breakfast about the Officer and his guns, and he took affirmative action to do so. While curiosity may be an explanation for the Grievant's actions, it is not an excuse or a legitimate reason to disobey a direct order, nor does it justify the actions of an employee who conducts an investigation into police administration activities. The Grievant's curiosity is also insufficient for the Arbitrator to disregard the Employer's well-reasoned decision to issue a one-day suspension without pay.

Chief Reynolds originally considered imposing more than a one-day suspension without pay to the Grievant, but reduced it to one-day due to the Grievant’s work history and lack of discipline. Chief Reynolds determined a one-day suspension without pay would be sufficient to correct the behavior, but anything less would not be adequate in light of his intentional breach of a direct order. Chief Reynolds testified, he viewed the Grievant's action of accessing and viewing the surveillance video to be the same as if an employee would have stayed at the Police Department once ordered to leave. In either scenario the

employee would have been able to determine what the what the special detail was about.

The Grievant received fair and equitable treatment. The Grievant’s actions were more serious than the PSO who received a coaching memo. He agreed it was inappropriate to spy on a supervisor. The lack of prior discipline does not trump egregious conduct, which by its very nature undermines paramilitary order and authority necessary in a police department. While the Grievant may object to the one-day suspension without pay as a mark on his good work record, the seriousness of his actions cannot be overlooked or ignored. This was not a minor work infraction. It was a very serious breach in a paramilitary organization which is founded in order and structure of command. Compliance is essential and it is the seriousness of the Grievant's misconduct which warranted a one-day suspension without pay.

Based on all of the testimony, evidence and record, the Employer respectfully requests the Arbitrator deny the Union's grievance.

ANALYSIS OF THE EVIDENCE

Article 11, Discipline, Section 11.1 of the Collective Bargaining Agreement provides that “[t]he EMPLOYER will discipline employees for just cause only.” This "just cause" requirement means that the Employer must act in a reasonable,

fair manner and cannot act in an arbitrary, capricious or discriminatory manner. The Employer's discipline of the Grievant must therefore meet the standard of reasonableness.

There are generally two areas of proof in an arbitration of an employee's discipline case. The first involves proof of actual wrongdoing, the burden of which is always placed upon the employer when the contract requires just cause for discipline. The second area of proof, once actual wrongdoing is established, is the propriety of the penalty assessed by the employer.

It is undisputed that at approximately 9:00 p.m. on October 24, 2012, Sergeant Hill gave a direct order to Police Officer Niemackl to inform all night shift staff to vacate the Police Station until such time that Sergeant Hill ordered them to return to the Station. Sergeant Hill also informed Police Officer Niemackl that he would be serving as the OIC in the absence of Sergeant Hill and Captain Johnson while they performed a private detail during the evacuation of the Police Station. The night shift staff obeyed the order to evacuate the Police Station without incident and then returned to the Station shortly after 10:17 p.m. Sergeant Hill did not disclose to Police Officer Niemackl nor any other night shift staff the reason for the order to evacuate the Police Station.

After the shift change the following day, October 25, 2012, Police Officer Niemackl met with the Grievant, Police Officer

Lakotas and the PSO to have breakfast in a public restaurant. This group did have a discussion as to why the night shift staff was ordered to leave the Police Station by Sergeant Hill. There was speculation among the group as to the possible reasons for the order to evacuate the Police Station. In particular, the Grievant could only recall discussion about the recent IA investigation of the Officer by the Police Department. In fact, the members of this group were aware of the IA investigation and that the Officer continues to be on Administrative Leave. They were made aware of this information due to an e-mail from Chief Reynolds on September 18, 2012, to all staff, which included the reference to the IA investigation concerning the Officer and also the sentence, "[a]ny questions concerning this need to be brought to me."

Based upon Police Officer Niemackl's suggestion that it would be possible to review the Police Department video tapes of what occurred while the night shift staff was ordered to leave the Police Station, the Grievant reviewed the tapes and discovered that Sergeant Hill's order to leave the Station had something to do with the Officer's IA as he saw Sergeant Hill carrying what appeared to be guns while walking out the door by the south entrance to the parking lot. The Grievant admitted he called Police Officer Lakotas to his cubical to show her a still (paused) picture of Sergeant Hill with the guns. The PSO also

independently reviewed the surveillance tapes after the Grievant had told her he had done so.

The Grievant claims that since the order for the night shift staff to leave the Police Station had expired by the start time of his morning shift, and the order did not specifically exclude reviewing the video surveillance during the time the night shift staff was ordered to evacuate the Police Station, he had the right to review the surveillance video as it was public rather than private or confidential data.

The Grievant's arguments fail to recognize that Chief Reynold's e-mail dated September 18, 2012, was still in effect at the time he reviewed the surveillance video. This e-mail was a direct order by the Chief for staff to bring all questions to him pertaining to the Officer's IA investigation. Thus, since the Grievant and others at breakfast theorized that the ordered evacuation involved the Officer's IA investigation, the Grievant violated the Chief's order by independently reviewing the surveillance video without discussion or consent by the Chief.

In addition, the Grievant testified he understood the intent of Sergeant Hill's order was to prevent any staff from seeing what Sergeant Hill and Captain Johnson were doing that evening during the staff evacuation, yet despite this he believed the order did not apply to him, and looked at the surveillance video anyway.

The Grievant's actions in reviewing the surveillance video violated the specific intent of the order to maintain privacy of a personnel matter, and amounted to insubordination as it circumvented the direct order which was issued. All Police Officers and staff who testified agreed it was not appropriate for employees to be investigating their superior officers. Yet, that is exactly what the Grievant did in this case by reviewing the surveillance video, in complete disregard of specific direction from a superior officer. This review was the same as if the night shift staff had disobeyed the order to leave the Police Station, and stayed behind to observe Sergeant Hill and Captain Johnson's activities.

The issue of whether the Grievant had the right to review the surveillance video because it was public data is misplaced. Even assuming that the Grievant had the right as a public citizen to review the surveillance video, he never requested that right, but rather did his review while on duty and being paid by the City. Thus, whatever rights the Grievant had as a citizen to review the surveillance tape were negated by his work-related actions, and were also in violation of the Chief and Sergeant Hill's orders.

The Union argues there is no policy on the use of the surveillance video system. While this may be true, it does not excuse the Grievant's action of insubordination by undermining

the paramilitary structure of the Police Department. Instead it is a reasonable expectation to expect the Grievant and all other Police Department staff to know it is inappropriate to spy on or circumvent a direct order issued by a superior officer. In fact, the other three staff members who were involved in this incident realized their mistake in judgment by accepting the penalties meted out by the Chief for disobeying a director order by a superior officer.

The need and right of an employer to expect that their employees promptly follow work directions is paramount in any employment setting. If work orders are not promptly complied with, employees could take it upon themselves to decide what work orders they would and would not follow and chaos would result. The coordination of activities and effort necessary to maintain accountability and productivity would disintegrate. Accordingly, one of the most zealously guarded rights of management is its right to expect compliance with work orders in a timely fashion, and one of the most serious offenses is insubordination. In fact, Police Department Policy 201.41, Obeying Orders, adheres to this principle: "All members shall promptly obey any lawful order emanating from any superior officer." (Association Exhibit #2).

It is for this reason that the rule has arisen under concepts of just cause that when a work order is given, the

propriety of which an employee challenges, it is the duty of the employee to carry out the work order and to grieve later over the propriety with which it was given. This rule is generally stated, "obey now and grieve later."

Police Department Policy 201.42, Disobedience of Orders, adheres to this principle by providing "[f]ailure to comply with a legal command or order issued by a superior officer shall constitute a violation of this section. Whenever any question arises as to the wisdom of an order issued by a supervising officer, the order shall be obeyed and any question regarding it submitted to a higher ranking supervising officer." (Association Exhibit #2).

Only a very few exceptions to the "obey now and grieve later" rule have been recognized under the concepts of just cause. Police Department Policy 201.41 enumerates only one exception to the rule, that being the order must be "lawful." There is no convincing evidence that the orders given by Chief Reynolds in his e-mail and the orders given by Sergeant Hill to the night shift staff were unlawful.

While curiosity may be an explanation for the Grievant's actions, his actions still constituted insubordination under Police Department Policies 201.41 and 201.42. Curiosity is not a legitimate excuse or reason to disobey a direct order from a supervising officer, nor does it justify the actions of the

Grievant who conducted an unauthorized investigation into police administration activities.

Clearly, the City has established the first area of proof by proving that the Grievant committed actual wrongdoing. This leaves only the second area of proof -- the propriety of the penalty assessed by the Employer against the Grievant.

It is generally accepted that enforcement of rules and assessments of discipline must be exercised in a consistent manner; all employees who engage in the same type of misconduct must be treated essentially the same unless a reasonable basis exists for variations in the assessment of punishment (such as different degrees of fault or mitigating or aggravating circumstances affecting some but not all of the employees).

The Union alleges that the Grievant is a victim of disparate treatment. In order to prove disparate treatment, the Union must prove both parts of the equation. It is not enough that an employee was treated differently than others; it must also be established by the Union that the circumstances surrounding the Grievant's actions were substantively like those of individuals who received more moderate penalties.

Only the Grievant grieved the disciplinary action taken by the Employer. The other three staff members decided to accept the penalties meted out by the Chief Reynolds involving the surveillance video incident.

The Grievant was given a one-day suspension without pay for insubordination for accessing the surveillance system and viewing the tapes, telling two staff members of his discovery (Police Officer Lakotas and the PSO), and showing one of the staff members (Police Officer Lakotas) a still shot of the surveillance footage.

Chief Reynolds testified he considered a number of factors in determining to suspend the Grievant for one day without pay. These considerations included reviewing: internal affairs statements taken and the Investigative Summary submitted by Sergeant Hill, Police Department Policies, the Grievant's personnel file, his previous discipline record, his training records, and a discussion he had with the Grievant prior to issuing discipline. Chief Reynolds indicated the Grievant took no responsibility for his actions, or admitted he was in the wrong.

Chief Reynolds further testified he considered the discipline listed in the Collective Bargaining Agreement, and had originally determined that the Grievant should receive a two-day suspension without pay. He reduced the suspension to one-day without pay due to the Grievant’s positive work record and lack of prior discipline. Chief Reynolds determined a one-day suspension without pay would be sufficient to correct the behavior, but anything less would not be adequate in light of

his intentional breach of a direct order. Chief Reynolds testified, he viewed the Grievant's action of accessing and viewing the surveillance video to be the same as if an employee would have stayed at the Police Department once ordered to leave. In either scenario the employee would have been able to determine what the special detail was about.

The Grievant has been employed by the Hopkins Police Department since 1999. During his tenure he has received excellent performance reviews, and a good record of service with the Police Department. (Association Exhibit #1). In fact, this incident is the first time that the Grievant has ever been formally disciplined by the Police Department in his fourteen years of service with the City. He has served as a Police Officer, a Detective, and acting Sergeant on three separate occasions; the longest time serving as acting Sergeant was in excess of two years. The Grievant attended and completed 98 hours of instruction in the Police Management/Supervision Series, while serving as acting Sergeant.

Of the three other staff members who were disciplined by Chief Reynolds for this incident, only Police Officer Niemackl received a one-day suspension without pay. However, Police Officer Niemackl was the only one to have directly heard the order given by Sergeant Hill, he was the OIC when the order was given, he was the one to have informed the group at breakfast of

the order, he stated that the reason for the order could be established by reviewing the surveillance video, and he already had a significant history of discipline and corrective actions with the Police Department.

The PSO, a civilian employee with a little more than one year on the job at the time of the incident, who physically accessed and viewed the surveillance video, like the Grievant, was issued a counseling letter. Although the PSO did view the surveillance video, she did not discuss with anyone what she saw on the video, unlike the Grievant, who discussed it with the PSO and Police Officer Lakotas.

Police Officer Lakotas was issued a letter of reprimand for insubordination and her role in conducting an investigation into police administration. Police Officer Lakotas notified another Police Officer, confirming the order had to do with the Officer's IA investigation, after she viewed a still shot of the video footage of Sergeant Hill and Captain Johnson.

Of the three other disciplined staff members, the Grievant's involvement more closely aligns with the involvement of Police Officer Lakotas who received a written reprimand rather than Police Officer Niemackl who received a one-day suspension without pay. Moreover, the Grievant should be given the benefit of the doubt due to his stellar work and discipline record for fourteen years with the Police Department, unlike

Police Officer Niemackl. Clearly, the Grievant was a victim of disparate treatment in this case.

AWARD

Based upon the foregoing and the entire record, the grievance is reduced from a one-day suspension without pay to a written reprimand. The Grievant is entitled to receive one-day of pay.

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Richard John Miller

Dated September 6, 2013, at Maple Grove, Minnesota.