

AMERICAN ARBITRATION ASSOCIATION

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In the Matter of the Arbitration :
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 between :
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CITY OF PHILADELPHIA, :
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 “City” :
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 - and - :
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F.O.P, LODGE NO. 5, :
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 “Union” :
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AAA Case No.
01-18-0003-5716

Opinion & Award

Re: Corporal Jacqueline Conway -
Suspension

Hearing: October 7, 2019

APPEARANCES

For the City

CITY OF PHILADELPHIA LAW DEPARTMENT
Daniel Unterburger, Esq., Assistant City Solicitor

For the Union

WILLIG, WILLIAMS & DAVIDSON
Jessica C. Caggiano, Esq.

BEFORE: David J. Reilly, Esq., Arbitrator

BACKGROUND

The City suspended Corporal Jacqueline Conway for five days, effective June 24, 2018. It took this action upon finding that she had violated Department Disciplinary Code, Article I - Conduct Unbecoming, Section 1-§010-10, by failing to fulfill her off-duty responsibilities relative to a crime that occurred on [REDACTED], at a location where she was temporarily residing.¹ More specifically, it identified her misconduct as: (1) failing to immediately call 911 to report the crime; (2) neglecting to notify the responding officers that she was a witness to the crime; (3) compromising the crime scene by removing items from the residence; and (4) delaying six weeks in providing a statement of the incident to the investigating detectives.

The Union contends the City lacked just cause to suspend Conway. It asks that the suspension be reversed and the City be directed to make her whole for all pay and benefits lost as a consequence of it.

The relevant facts of this case, which are largely undisputed, may be set forth succinctly.

Conway's Employment History

At the time of the suspension, Conway had been a member of the Department for approximately twenty-three years. She has held the rank of Corporal since 2002. Throughout her tenure with the Department, she has received annual evaluations from her superior officers rating her performance as satisfactory. (Union Exhibit 1.)

¹ As of [REDACTED], Conway was known as Jacqueline Rivera. (City Exhibit 1.)

In [REDACTED], Conway was assigned to the Second District. At that time and throughout her tenure as a Corporal, she has served as an Operations Room Supervisor, with responsibility for overseeing a staff of four police officers.

Her record of prior discipline consists of an eight-day suspension in 2011 for violating the same Department Disciplinary Code provision at issue here, Article I - Conduct Unbecoming, Section 1-§010-10. This earlier suspension arose from a domestic incident.

Department Directive 10.10

Directive 10.10 details the obligations of the Department's police officers when taking any off-duty police action. (City Exhibit 2.) The Directive instructs that in most off-duty situations, the appropriate response is to give emergency notice to the Department and provide detailed information to the responding on-duty officers. City Witness Lieutenant Louis Higginson summarized this obligation as "call 911 and be a good witness."

Department Directive 4.1

Directive 4.1 sets forth the responsibility of the Department's police officers at crime scenes. (City Exhibit 3.) The Directive specifies: "It is the responsibility of all Police Department personnel, regardless of their rank or assignment, to protect the scene of a crime." (City Exhibit 3.) Higginson averred that this mandate extends to both on-duty and off-duty officers. He acknowledged, however, that by the terms of this Directive, primary responsibility for securing a crime scene rests with the responding officers.

Internal Affairs Investigation

The circumstances leading to Conway's suspension began with an [REDACTED] email from Captain S [REDACTED] T [REDACTED], Commanding Officer of the Northeast Detective Division ("NEDD") to Captain C [REDACTED] A [REDACTED] of the Internal Affairs Department ("IAD"). By this communication, T [REDACTED] advised that NEDD's investigation of an armed robbery that occurred the prior evening at [REDACTED] in Philadelphia (the "Premises"), yielded a security video showing Conway had been directly involved in the dispute. He reported further that Conway had never made this fact known to the Department. (City Exhibit 1.)

In response to this communication, IAD opened an investigation of the matter.²

Higginson, who completed the investigation, confirmed that IAD interviewed, among others, all of the officers that responded to the [REDACTED] robbery and the NEDD detectives assigned to investigate it, along with their supervisor, Lieutenant D [REDACTED] R [REDACTED]. Interviews, he said, were also conducted of Conway and J [REDACTED] C [REDACTED] ("J [REDACTED]"), her then fiancé and now husband, who was also present at the scene of the [REDACTED] robbery. (City Exhibits 1 & 7.)

Each of the responding officers, he recounted, averred that Conway did not attempt to speak with them while they were at the scene. They also reported being unaware of her presence there.

The detectives, he said, stated that Conway failed to make herself available for an interview regarding this matter until approximately six weeks later. (City Exhibit 8.)

² On [REDACTED], IAD initially assigned the investigation to Sergeant Joseph Chilutti. Following his retirement, Louis Higginson assumed responsibility for completing the investigation as of June 1, 2017. (City Exhibit 1.)

In his testimony, Lieutenant R [REDACTED] reported that this delay in interviewing Conway stemmed from her having cancelled a few appointments to meet with NEDD detectives. On cross-examination, he acknowledged that in scheduling Conway's interview, NEDD detectives did not communicate directly with her, but did so through her Commanding Officer, T [REDACTED] M [REDACTED]. He also confirmed that his direct testimony concerning Conway cancelling scheduled interview appointments was based upon reports from his detectives.³

Higginson also confirmed that the IAD investigation included a review of the two security videos obtained from the Premises. (City Exhibits 4 – 6.) The videos, he related, show the following activity on the evening of [REDACTED]:

- At approximately 8:34 p.m., Conway and J [REDACTED] arrived at the Premises driving in a truck;
- As J [REDACTED] parked the vehicle, Conway proceeded to the front door and knocked;
- An unknown male then exited and Conway attempted to grab him as he jumped over the porch railing;
- Conway's nephew J [REDACTED] M [REDACTED] and others joined her on the front porch, and M [REDACTED] exchanged words with the unknown male;
- Conway, M [REDACTED] and the others entered the Premises;
- At 8:45 p.m., patrol cars arrived and several of the responding officers entered the Premises;
- Approximately ten minutes later, all of the responding officers returned to their vehicles and drove away with the third vehicle departing at 8:57 p.m.; and
- Seconds later, the door to Conway's vehicle opened remotely; immediately thereafter, Conway and others, including several children,

³ Neither M [REDACTED] nor the NEDD detectives responsible for Conway's interview testified at the hearing in this matter.

exited the Premises carrying bags, which they loaded into Conway's mini-van and another vehicle before driving away.

(City Exhibit 4 – 6.)

Upon completing the investigation, Higginson confirmed finding: (1) Conway neglected to call 911 to report the [REDACTED] robbery; (2) she failed to inform the responding officers that she witnessed the incident; (3) she disregarded her obligation to protect the Premises as a crime scene by removing items from the home; and (4) she did not make herself promptly available for an interview by the assigned detectives. As a consequence, he concluded that she had violated Department Directives 4.1 and 10.10.

Conway's Testimony

In her testimony regarding this matter, Conway recounted the events of [REDACTED]

Explaining her presence that day at the Premises, which is owned by her former sister-in-law, she averred residing there temporarily with J [REDACTED] and her children. This arrangement, she said, was necessitated by an unexpected delay in her closing on the purchase of a new home.

That evening, as she and J [REDACTED] were returning to the Premises, she reported receiving a frantic telephone call from her daughter J [REDACTED], who stated "something was going on" and they should come there as soon as possible.

Upon arriving at the Premises, she related proceeding to the front door, where she encountered an unknown male exiting the home, followed by M [REDACTED] and her children, who were screaming. The unknown male, after jumping over the porch railing, spoke to M [REDACTED], stating, "Give me what you got. I'm not playing around," and then began

counting down from thirty. When the male referred to M [REDACTED] as J [REDACTED], she concluded he was an acquaintance engaged in argument and not a robbery.

At this point, in response to M [REDACTED]'s urging, she, M [REDACTED] and the children went into the Premises. Once inside, she reported asking M [REDACTED] what had occurred, and recalled that he replied, "I was robbed. They have guns and may be trying to get in from the back of the house."⁴ As a result, she recounted directing, everyone to go to the second floor.

According to Conway, once there, she had intended to call 911, but did not do so upon learning her daughter J [REDACTED] was making the call. She then related calling J [REDACTED], who had remained outside, to advise him that the unknown male and his companions had weapons. In speaking with J [REDACTED] by cell phone, she said, he reported having been shot at twice while pursuing these individuals.

She continued that her youngest child, a six year-old, became hysterical upon overhearing J [REDACTED]'s account of the shooting. In response, she related taking the child to bathroom, where she attempted to calm her down. As she was doing so, she recalled hearing the responding police officers enter the Premises. The officers, she said, never came to the second floor and departed within five minutes of their arrival.

Unaware whether the unknown male and his companions had been arrested, she reported electing to relocate her family to an area hotel. In doing so, she detailed gathering the children's clothing, exiting the home and proceeding to her vehicle, which was parked in front of the Premises. Before traveling to the hotel, she drove to J [REDACTED]'s

⁴ At another point in her direct testimony, she averred first learning that M [REDACTED] had been robbed at gunpoint in speaking with him the next day.

location and advised him that if the responding officers needed her, she would return once the children had been settled.

Two days later, on [REDACTED], she reported being reassigned as a consequence of the incident at the Premises. Despite this action, she related, NEDD detectives did not interview her regarding the matter until [REDACTED]. She denied R [REDACTED]'s account of her having cancelled several earlier scheduled dates for this interview.

Police Board of Inquiry (“PBI”) Hearing

On the basis of the findings of the IAD investigation, the Department charged Conway with three violations of its Disciplinary Code. These included: (1) Article I – Section 1-§001-10, Conduct Unbecoming – Unspecified; (2) Article I – Section 1-§008-10, Conduct Unbecoming – Failure to Cooperate in any Departmental Investigation; and (3) Article I – Section 1-§009-10, Conduct Unbecoming – Lying or Attempting to Deceive Regarding Any Material Fact During any Departmental Investigation. (City Exhibit 9.)

Following an April 2, 2018 hearing on these charges, the designated PBI panel found Conway guilty of only the first charge. For this infraction, the panel recommended that Conway receive a five-day suspension. (City Exhibit 10.)⁵

The Commissioner adopted the PBI panel's recommendation and suspended Conway without pay for five days, effective June 24, 2018. (Joint Exhibit 4.)

⁵ In a Memorandum to the Commissioner, dated April 6, 2018, the PBI panel provided a summary of the facts established at the hearing. The Panel also explained its not guilty finding on the second and third charges, noting: (1) insofar as the second charge concerned Conway's established failure to communicate with the responding officers, it was encompassed within the first charge; (2) NEDD detectives did not seek to interview her until six weeks after the incident, and “if she had been asked to come in the day after the incident to be interviewed she may have cooperated fully;” and (3) there was no evidence supporting the charge that she had lied during the course of the investigation or when she was interviewed. (City Exhibit 11.)

Procedural History

This action prompted the instant grievance. (Joint Exhibit 1.) When the parties were unable to resolve the matter at the lower stages of the grievance procedure, the Union demanded arbitration. (Joint Exhibit 2.) Pursuant to the procedures of their collective bargaining agreement (the “Agreement”), the parties selected me to hear and decide this case. (Joint Exhibit 3.)

I held a hearing in this matter on October 7, 2019, at the offices of American Arbitration Association in Philadelphia, Pennsylvania. At that time, the parties each had full opportunity to present evidence and argument in support of their respective positions. They did so. Upon the conclusion of the hearing, I declared the record closed as of that date.

DISCUSSION AND FINDINGS

The Issue:

The parties have stipulated that the issues to be decided are as follows:

1. Did the City have just cause to suspend the grievant, Corporal Jacqueline Conway, effective June 24, 2018?
2. If not, what shall be the remedy?

Positions of the Parties

The City contends that its suspension of Conway was for just cause. It maintains that the evidence conclusively demonstrates that she violated Department Disciplinary Code Section 1-§010-10, by failing to comply with Department Directives 4.1 and 10.10 relative to the [REDACTED] incident at the Premises.

The record, it argues, confirms that she was aware a robbery had occurred there and had intervened by attempting to grab the suspect. As a consequence, it reasons, her

obligations under the referenced Directives were triggered; yet, the evidence shows she failed to comply. In support, it cites: (1) she neglected to call 911 to report the crime; (2) she failed to identify herself as a witness to the responding officers and share her observations; (3) she breached the crime scene by removing personal belongings from the Premises; and (4) she delayed being interviewed by NEDD detectives for six weeks.

These indisputable facts, it submits, prove she is guilty of the charged offense and that the level of discipline imposed was appropriate. As to the matter of penalty, it highlights that with this being her second offense for violating Disciplinary Code Section 1-§001-10, a five-day suspension represented a lenient response, inasmuch as the applicable range of discipline was reprimand to dismissal. (Joint Exhibit 3.)

Accordingly, for all these reasons, the City asks that Conway's suspension be sustained and the grievance be denied.

The Union, on the other hand, argues that the City lacked just cause to suspend Conway based upon her actions related to the [REDACTED] incident. It avers that the City has failed to meet its burden of proof in this regard.

More specifically, it contends that the City has failed to demonstrate Conway breached her obligations under the cited Directives as charged. Indeed, it maintains, the record confirms the opposite to be true.

Directive 10.10, it highlights, imposes two basic obligations upon an off-duty officer who witnesses a crime. These are: (1) call 911; and (2) be a good witness.

Conway, it submits, satisfied both responsibilities.

Addressing the first, it points out that a 911 call was made, albeit by the daughter. Aware of her daughter's action, it asserts, Conway had no reason to make a second call.

It stresses further that no dispute exists that the purpose of this requirement was satisfied here, as the Department received notice of the incident and police officers responded to the scene.

Turning to the second of these responsibilities, it maintains that the City erred in faulting her failure to communicate with the responding officers. It reasons that a review of the surrounding circumstances substantiates this assertion. It points out that having arrived at the tail end of the incident between M [REDACTED] and the unknown male, she reasonably concluded it to be an argument. The evidence, it avers, shows she did not learn of the robbery until some time later.

Moreover, it contends that Directive 10.10 does not require an off-duty police officer after calling 911 to remain on the scene and confer with the responding officers. Therefore, it maintains, she acted consistent with this Directive by the instructions that she gave to J [REDACTED] before leaving area of the incident; namely, directing him to notify the detectives where she could be located that evening. Thereafter, it notes, she was readily available to the NEDD detectives, inasmuch as her Second District work location was in the same building housing the NEDD squad. As such, it concludes, Conway satisfied her obligation to be a good witness by providing a statement when the NEDD detectives later questioned her.

Turning to Directive 4.1, it asserts that the City has not shown the responsibilities detailed there apply to off-duty officers. Higginson's testimony, it notes, does not demonstrate otherwise, as it represented his personal opinion rather and not a statement of official Department policy.

It stresses further that on the record here, the City lacks any basis to place blame on Conway for her actions in departing the Premises. In support, it cites that the Directive places primary responsibility for securing a crime scene upon the responding officers and their street supervisor. Yet, it points out, the uncontested evidence shows that the responding officers here failed to take any action to safeguard the Premises as a crime scene. As such, it asserts, she acted reasonably in collecting her family's belongings and leaving the Premises, inasmuch as it was necessary to relocate her children to a safe location with their being no confirmation that the suspects had been taken into custody.

In sum, it concludes that Conway fully satisfied her responsibilities as an off-duty officer relative to the [REDACTED] incident at the Premises, and as such, the City lacked just cause to discipline her. Alternatively, it avers that if it should somehow be found that she fell short in fulfilling her duties in this instance, it cannot support discipline beyond a reprimand.

Accordingly, for these reasons, the Union asserts that its grievance should be granted and the requested relief awarded.

Opinion

There can be no dispute that the City's Police Department has a legitimate interest in addressing off-duty police action by its officers. Indeed, its obligation to protect the safety of its officers and the general public that they serve commands as much. For this reason, the Department is certainly entitled to set a general expectation that when encountering criminal activity, an off-duty officer will call 911, share relevant information with the responding on-duty officers and protect the crime scene. As such,

an officer who breaches such standards that the Department may establish in this regard can and should expect that discipline will follow.

The City, of course, bears the burden of proof, where, as here, it charges an officer with disregarding such responsibilities. In particular, it must establish through the weight of the credible evidence that Conway is guilty of the charged offense. It must also demonstrate that the level of discipline imposed is appropriate.

The Union, on other hand, bears no parallel burden. It need not disprove the charges against Conway. Indeed, she is entitled to the presumption of innocence.

After a careful and thorough review of the record and the parties' respective arguments, I am convinced that the City has failed to meet its burden. My reasons for this conclusion follow.

Conway's suspension notice identifies her violation of Department Disciplinary Code Section 1-§001-10, Conduct Unbecoming (Unspecified) as involving four deficiencies in her conduct relative to the [REDACTED] incident at the Premises. These are: (1) failing to call 911 to report the incident; (2) neglecting to notify the responding officers that she was a witness to the incident; (3) compromising the crime scene by removing personal property upon leaving the Premises; and (4) delaying to provide a statement to NEDD detectives until six weeks after the incident.

On review, I am persuaded that the evidence presented substantiates that Conway is guilty of neglecting to communicate with the responding officers and compromising the crime scene, but not the other two charged failings. Indeed, the relevant facts are largely undisputed or beyond challenge.

Contrary to the Union's claim, Conway's reporting responsibilities relative to the [REDACTED] incident were not limited to advising the Department as to her whereabouts for a subsequent interview by the assigned detectives. Instead, she had an affirmative duty to confer with the officers that came to the Premises that evening in response to the 911 call. Section 1.C of Department Directive 10.10 makes plain this obligation, as it expressly directs an off-duty officer under such circumstances to "provide detailed information for the responding on-duty officers." (City Exhibit 2.)

On the record here, it stands undisputed that Conway failed to satisfy this obligation. She did not claim otherwise in her testimony.

This failure, I conclude, cannot be excused by the surrounding circumstances, including, in particular, her need to attend to her family. In making this finding, I have no doubt that she acted reasonably in moving her family to the second floor of the Premises for safety reasons. Nor, do I question the need to calm her young children after they learned gunshots had been fired at [REDACTED]. Nonetheless, as the evidence confirms, attending to those personal responsibilities did not preclude her from also fulfilling the obligation to communicate with the responding officers. Simply put, she had adequate time to do both.⁶

I note in this regard that the security video shows her exiting the Premises with various bags containing personal items within seconds of the departure of the last of the responding officers. Allowing even just a few minutes for her to gather those items, it follows that she had sufficient opportunity after comforting her children to make contact with the responding officers before they departed the location. Stated otherwise,

⁶ No dispute exists that Conway was aware of the arrival of the responding officers. In her testimony, she confirmed hearing them enter the Premises and call for M [REDACTED] to come to the first floor, as she attended to her family on the second floor.

communicating with the responding officers could and should have taken precedent over gathering personal items and readying her family to leave the Premises.

Turning to her charged failure to protect the Premises as crime scene, I am satisfied that the evidence establishes this violation of Directive 4.1. The record confirms that despite having knowledge that the Premises were a crime scene, she compromised it by removing items from there when departing with her family that evening.

Directive 4.1 states that “all” Department personnel, regardless of rank or assignment, are responsible for protecting the scene of a crime. I find no basis to construe this Directive, as the Union suggests, to exclude off-duty officers from all responsibility as to a crime scene. It is true that under the Directive, primary responsibility for securing a crime scene falls to the responding on-duty officers and their street supervisor. Nonetheless, on the basis of the Directive’s instruction that all Department personnel shall “protect the scene of a crime,” I do not find it unreasonable for the Department to expect off-duty officers to act consistent with their training and not compromise a crime scene. Conway did exactly the opposite when she removed various personal items from the Premises.

The failure of the responding officers to secure the Premises as a crime scene before departing does not excuse her conduct in this regard. Notwithstanding such inaction by the responding officers, she had reason to believe that a crime had occurred at the Premises, and, as such, had an obligation not to compromise the scene.⁷ Her testimony confirms such knowledge; namely, M█████ advised her of being robbed at

⁷ Conway’s failure to communicate and share this knowledge with the responding officers may well explain their failure to secure the Premises as a crime scene.

gunpoint by the unknown male assailant; and she witnessed both exiting the Premises upon her arrival there.⁸

Addressing the other two facets of Conway's charged misconduct, I find the City's evidence falls short of providing the requisite proof.

As to the requirement to call 911, the record is clear. She declined to make that call solely because her daughter had just done so. While such failure to personally call 911 may constitute a technical violation of Directive 10.10, I conclude that it does not rise to a level that supports the imposition of discipline under the circumstances here.

As for her alleged delay in giving a statement to the NEDD detectives, I find the evidence wanting. On the record here, I am not persuaded that the six weeks that elapsed from the incident to her [REDACTED] interview by NEDD detectives stemmed from dilatory actions or other inappropriate conduct on her part.

I find R [REDACTED]'s testimony insufficient to prove otherwise. His account of the scheduling of this interview, including the Conway's alleged cancellation of a few appointments, was not based upon first-hand knowledge. Instead, as he averred, it came from information related to him by NEDD detectives. As such, it represents hearsay. While hearsay is admissible in arbitration, it cannot, standing alone, be received for the truth of the matter asserted, particularly where it bears on a central issue in the case. The record here is devoid of any corroborating testimony or documentary evidence that might permit crediting R [REDACTED]'s account.

⁸ Conway's testimony reflects some inconsistency as to when she learned that M [REDACTED] had been robbed. Initially, she averred, that upon first entering the Premises, she questioned M [REDACTED], "What's going on?" and he replied, "I was robbed." Later, she reported becoming aware of the robbery in speaking with M [REDACTED] some time the next day. On review, I conclude that her initial more detailed representation should be credited. I note that it is consistent with the statement that she gave when interviewed by the NEDD detectives and subsequently by IAD. (City Exhibit 7-8.)

In sum, I conclude that R [REDACTED]'s testimony cannot support a finding that Conway improperly delayed giving a statement regarding the [REDACTED] incident to the NEDD detectives.⁹

Having found that the City proved Conway violated Department Disciplinary Code Section 1-§010-10, by breaching certain responsibilities under Directives 4.1 and 10.10 by her conduct on [REDACTED], there remains the issue of whether the level of discipline imposed was an appropriate response. I conclude that it was not.

The basic tenets of just cause mandate that the penalty must be proportionate to the offense committed. Under the Department's Disciplinary Code, which has been negotiated and incorporated into the Agreement, the five-day suspension that Conway received was within the permissible range of discipline for a second offense of Section 1-§010-10; namely, "Reprimand to Dismissal." This fact, however, does not terminate the analysis.

Instead, given this very broad range of permissible discipline, it is necessary to determine whether the level chosen was warranted. The principles of just cause command as much.

In making this assessment, consideration must be given to all relevant circumstances, both exacerbating and mitigating.

In this regard, I take note of the very personal circumstances that Conway faced that evening. Namely, after learning that her nephew had been robbed at gunpoint and the armed assailants might be seeking to enter the Premises, she acted to secure her

⁹ It should be noted that the in the April 6, 2018 Memorandum to the Commissioner, the PBI panel confirmed its determination that "[Conway] was not requested to come in for an interview for six weeks," and advised, "If she had been asked to come in the day after the incident to be interviewed she may have cooperated fully." (City Exhibit 11.)

family's safety by first sheltering with them on the second floor and once safe to leave, relocating them to an area hotel. As stated above, these circumstances do not excuse her transgressions in failing to communicate with the responding officers and compromising crime scene. However, they do provide context by which to assess the gravity of her offense.

In sum, giving consideration to these facts, I am persuaded that her established violations of the Department Directives at issue represent an error in judgment, as opposed to a willful and flagrant disregard of her duties.


In analyzing the appropriateness of the penalty imposed, I also take note that, as related above, the City failed to establish two of the four bases cited for her suspension.

Therefore, all things considered, I find that a five-day suspension is too severe a penalty for the misconduct established. Accordingly, I direct that Conway's unpaid suspension be reduced from five days to two days and that she be made whole for the three days lost. This penalty should suffice to impress upon her the obligation to fulfill her responsibilities as an officer, including complying with the requirements of all Department Directives.

AWARD

1. The grievance is granted, in part, and denied, in part.
2. The City had just cause to discipline Jacqueline Conway for her conduct on [REDACTED], but the penalty of a five-day suspension was excessive. The suspension shall be reduced to a two-day unpaid suspension.
3. The City will make Jacqueline Conway whole for all pay and benefits lost as a consequence of the additional three days for which he was suspended, effective June 26, 2018 through and including June 28, 2018. I will retain jurisdiction of this matter to resolve any dispute as to the implementation of this award, including the monies to be paid to or on her behalf in providing the make whole relief.
4. Jacqueline Conway's personnel record shall be revised, accordingly.

November 12, 2019




David J. Reilly, Esq.
Arbitrator

STATE OF NEW YORK)
)
) ss.:
COUNTY OF NEW YORK)

I, DAVID J. REILLY, ESQ., do hereby affirm upon my oath as Arbitrator that I am the individual described herein and who executed this instrument, which is my Award.

November 12, 2019



David J. Reilly, Esq.
Arbitrator